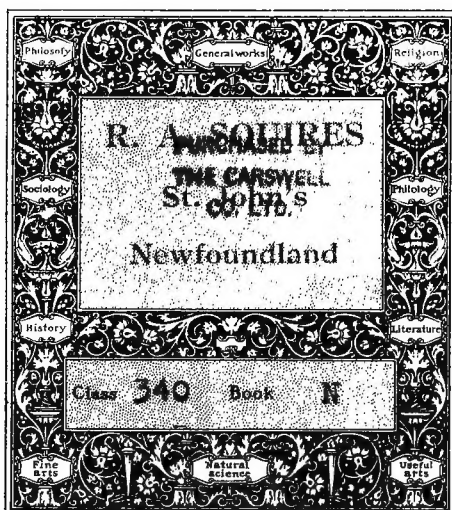




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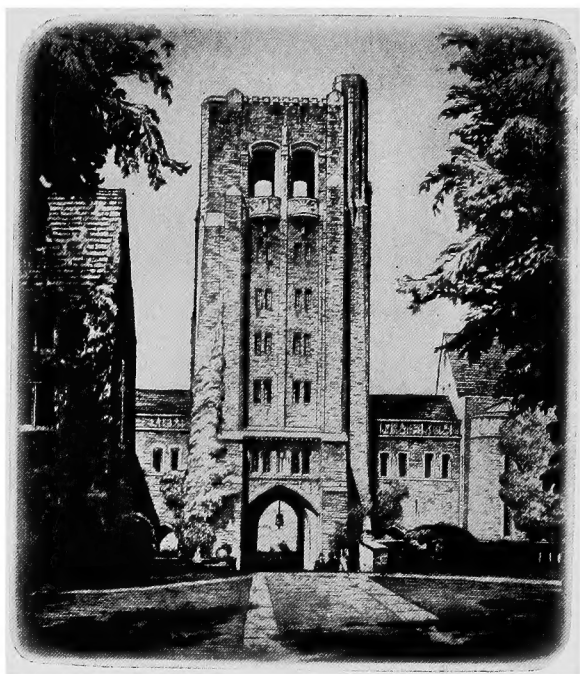
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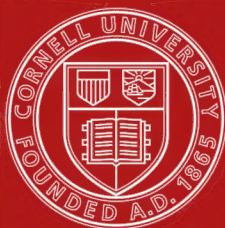


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THE
CONSOLIDATED STATUTES
OF
NEWFOUNDLAND.

AS PASSED BY THE LEGISLATURE IN THE THIRD SESSION OF THE TENTH
GENERAL ASSEMBLY [A. D. 1872] ON THE REPORT OF A
SELECT COMMITTEE OF THE HOUSE OF ASSEMBLY,
APPOINTED TO REVISE THE CONSOLIDATED
STATUTES, AND CONSISTING OF :

HON. THE SPEAKER.
HON. ATTORNEY GENERAL.
HON. F. B. T. CARTER, Q. C.
PRESCOTT EMERSON, Esq., BARRISTER-AT-LAW.
ROBERT J. PARSONS, Esq., BARRISTER-AT-LAW.

PRINTED UNDER THE SUPERVISION OF ROBERT J. KENT, Esq., BARRISTER-AT-LAW,
SECRETARY TO THE SAID SELECT COMMITTEE.

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1874.

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NOTE.

The Acts 6 Vic., Cap. 19, [passed 22nd May, 1843,] entitled, “An Act for vesting all estates and property occupied by the ordnance service of her Majesty in the principal officers of the ordnance department;” and 19 Vic., Cap. 22, [passed 12th May, 1856,] entitled “An Act for transferring to one of her Majesty’s principal Secretaries of State the powers and estates vested in the principal officers of the ordnance,” have not been included amongst the Acts repealed by the last chapter of these Consolidated Statutes, it being considered advisable not to repeal them for the present.

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PROCLAMATION.

By His Excellency STEPHEN J. HILL, Esquire,
STEPHEN J. HILL, Companion of the Most Honorable Military
Governor. Order of the Bath, Governor and Com-
[L. S.] mander-in-Chief in and over the Island of
Newfoundland and its Dependencies, &c.

WHEREAS I, The Governor in Council, have, in accordance with the provision contained in Chapter 117 of the Consolidated Statutes of this Colony, caused a correct printed copy of the said Statutes to be deposited in the Office of the Colonial Secretary, which is attested with my signature and countersigned by the Acting Colonial Secretary; which copy, it is provided by the said Chapter, shall be held to be the Original of the said Statutes. And Whereas, by the said Chapter, I, the said Governor in Council, am authorized, after the deposit of the copy as aforesaid, to declare the day on, from and after which the same shall come into force and have effect as Law: I do, therefore, with the advice of my Executive Council, by this my Proclamation, declare that on, from and after the Sixteenth day of May, now next ensuing, the said Statutes shall come into force and effect, as Law, by the designation of "The Consolidated Statutes of Newfoundland;" of which all Courts, Justices and Persons, shall take due notice and govern themselves accordingly.

GIVEN under my hand and seal, at St. John's, in
the aforesaid Island, this Fourteenth day of
April, A. D., One Thousand Eight Hundred
and Seventy-four.

By His Excellency's Command,

E. D. SHEA,
Act'g Colonial Secretary.

THE

CONSOLIDATED STATUTES

OF

NEWFOUNDLAND.

*In the Year of Our Lord One Thousand Eight Hundred and
Seventy-two.*

AN ACT

**FOR REVISING AND CONSOLIDATING THE STATUTES AND
LAWS OF THE COLONY.**

[PASSED 25TH APRIL, 1872.]

BE it enacted by the Governor, Legislative Council, and Assembly
as follows:—

TITLE I.

Of the Promulgation and Construction of Statutes.

CHAPTER 1.

SECTION

- 1—All acts public.
- 2—Commencement of date.
- 3—Publication, how evidenced.
- 4—Repeal or alteration the same session.
- 5—Acts to be divided into sections; each section substantive enactment.

SECTION

- 6—Acts to be revived by express enactment only.
- 7—Proceeding under old act continued under new.
- 8—Construction of acts, meaning of certain words; general provisions.

1. All acts shall be deemed public, and may be declared on and given in evidence without being specially pleaded.

2. The Clerk of the Legislative Council shall endorse on the back of every act the day of the month and year of the Governor's assent thereto, and the endorsement shall be held part of the act and shall be the date of its commencement, unless otherwise provided.

3. Printed copies of acts published in the *Royal Gazette* Newspaper in St. John's, or purporting to be published by the Queen's printer for the Island, shall be evidence of such act.

4. Any act may be altered or repealed during the session in which it shall have passed.

5. All acts shall be divided into sections if there be more enactments than one, and each section shall be deemed to be a substantive enactment without any introductory words.

6. No act nor any portion of an act that shall be repealed shall be revived unless by express enactment.

7. Where an act shall be repealed in whole or in part, and other provisions substituted, all persons acting under the old law shall continue to act as if appointed under the new law, until others are appointed in their stead; and all proceedings taken under the old law shall be taken up and continued under the new, when not inconsistent therewith, and all penalties may be recovered and proceedings had in relation to matters which have happened before the repeal, in the same manner as if the law were still in force.

8. In the construction of acts the following rules shall be observed, unless otherwise expressly provided for or such construction would be inconsistent with the intention of the Legislature or repugnant to the context; that is to say:—

The words “Queen,” or “Her Majesty,” shall include Her Majesty, Her Heirs or Successors.

“Governor” shall include the person administering the Government of the Colony for the time being.

“Warrant” shall signify Warrant under hand and seal.

“Month” shall signify a calendar month, and “Year” a calendar year; “Year” alone shall be equivalent to the expression “Year of our Lord.”

“Oath” or “Affidavit” shall include affirmation in cases where by law an affirmation may be substituted for an oath or affidavit; and in the like cases the word “Sworn” shall include the word “Affirmed.”

“Person” may extend to bodies politic and corporate as well as to individuals, and also to a class of persons.

“Justice” shall signify “Justice of the Peace.”

“Gaol” or “Common Gaol” shall include Penitentiary.

“Grantor” may be construed as including every person from whom any freehold estate or interest passes by deed; and “Grantee” as including every person to whom any such estate or interest passes in like manner.

“Highway” or “Road” shall signify a public highway or road, and may also include public bridges.

“Goods” shall mean personal property.

“Representatives” shall mean executors and administrators.

“Wills” shall include codicils.

“Ship” or “Vessel” shall mean any description of vessel or boat impelled by sails, steam or otherwise.

“Sureties” shall mean sufficient sureties, and “Security” sufficient security.

The word “may” shall be construed as directory, and the word “shall” as imperative, unless from the context a contrary intention shall appear.

Every word importing the singular number only may extend to several persons or things as well as to one person or thing; and every word importing the plural number only may extend to one person or thing as well as several persons or things; and every word import-

ing the masculine gender only may extend to females as well as males.

All words purporting to give a joint authority to three or more persons shall be construed as giving authority to a majority of such persons.

Where authority to make appointments to public situations is conferred, it shall include the power to fill up vacancies caused by death, resignation, removal or refusal to act.

Where a penalty shall be imposed and no particular mode be prescribed for recovery thereof, the same may be recovered in the name of any person who will sue therefor, in the same manner and with the like costs as if it were a private debt due such person, the nature of the offence being briefly stated; and where no particular mode of applying any penalty shall be prescribed, the same shall be paid one half to the person who shall have sued for the same and the other half to the Receiver General for the use of the colony.

The imposition of a penalty shall not relieve any person from liability to answer for special damages to a party injured.

When power to make bye-laws, rules or orders is conferred, it shall include the power to alter or revoke the same and make others. And no such bye-laws, rules or orders shall be enforced if contrary to law.

Where forms are prescribed, slight deviations therefrom, not affecting the substance or calculated to mislead, shall not vitiate them.

Justices of the Peace may administer all oaths with regard to the taking of which no particular directions are given. Quakers, Moravians, Separatists or others, where an oath or affidavit is prescribed, may, instead of taking the same, solemnly affirm in manner used in their religion; and such affirmations shall have the like effect, and render the parties taking them liable to the like penalties, if false, as attach to an oath.

If the day upon which an act is to be done should fall on a Sunday, Christmas Day, or Good Friday, the same shall be performed on the day following.

Where, in these Consolidated Statutes, the future tense or words implying futurity may be used, and there are already existing appointments or facts corresponding with what may be provided for by such future tense or words implying futurity, such appointments and facts shall be held to be intended by and to satisfy the requirements

of the provisions of these Consolidated Statutes until new appointments or other proceedings shall become necessary.

When bonds are required to be given by a public officer, they shall be taken in Her Majesty's name where not otherwise directed.

When the number to constitute a quorum in any Board under any act shall not be prescribed, a majority of the Board shall be a quorum, and a Chairman shall only have an equal vote with other members.

Words directing or empowering a public officer or functionary to do any act or thing, or otherwise applying to him by his name of office, shall include his successors in such office and his and their deputies.

TITLE II.

Of the Legislature.

CHAPTER 2.

OF THE DURATION OF AND REPRESENTATION IN THE GENERAL ASSEMBLY.

SECTION

1—Duration of General Assembly.

2—House to consist of thirty members.

Ten a quorum.

SECTION

3—Division of Districts.

4—Qualifications of Members.

1. The General Assembly shall continue, notwithstanding the demise of Her Majesty, for four years from the day on which they shall by proclamation be appointed to meet unless sooner dissolved, and no longer.

2. The House of Assembly shall consist of thirty members, of whom ten shall be a quorum.

3. The representation in General Assembly shall continue as follows :—That is to say—

The District of Twillingate and Fogo shall be comprised within the limits of the present Electoral District of Twillingate and Fogo, and shall be represented in General Assembly by two members.

The District of Bonavista shall be comprised within the limits of the

present Electoral District of Bonavista, and shall be represented in General Assembly by three members.

The District of Trinity shall be comprised within the limits of the present Electoral District of Trinity, and shall be represented in General Assembly by three members.

The District of Conception Bay shall be comprised within the limits of the present Electoral District of Conception Bay, and shall be represented in General Assembly by seven members ;

Of whom two shall be chosen by the Electors residing in that part of the said District to be called the Southern division thereof, lying between the District of Saint John's and Turk's Gut inclusive ;

One by the Electors residing in that part of the said District to be called the Port-de-Grave division thereof, lying between Turk's Gut exclusive and Port-de-Grave inclusive ;

Two by the Electors residing in that part of the said District, to be called the Harbor Grace division thereof, lying between Port-de-Grave exclusive and Harbor Grace inclusive, including Harbor Grace Island ;

One by the Electors residing in that part of the said District, to be called the Carbonear division thereof, lying between Harbor Grace exclusive and Freshwater exclusive ;

One by the Electors residing in that part of the said District, to be called the Bay-de-Verds division thereof, lying between Freshwater and Bay-de-Verds both inclusive.

The District of Saint John's shall comprise the present Electoral District of Saint John's, and shall extend southward and westwardly, to a straight line drawn from Petty Harbor inclusive to the Northern Goulds Bridge on the Bay Bulls Road, and thence to Broad Cove, inclusive, and shall be represented in General Assembly by six members ;

Of whom three shall be chosen by the Electors of the said District residing southward of Saint John's Harbor and westward of a line drawn from said Harbor through the centre of Beck's Cove, thence across Duckworth Street round the west side of Play House Hill, along the centre of Carter's Lane, up Carter's Hill, thence along Cook's Town Road, thence along Fresh Water Road to the west end thereof, and thence in a direct line to Broad Cove settlement inclusive, which shall be called the division of Saint John's West ;

And three by the Electors of the said District residing eastward and northward of the above named Cove, Line, Lane and Roads, including Belle Isle, which shall be called the division of Saint John's East.

The District of Ferryland shall be comprised within the limits of the present Electoral District of Ferryland, and extending to the said south-western boundary of the said District of Saint John's, and shall be represented in General Assembly by two members.

The District of Placentia and Saint Mary's shall be comprised within the limits of the present Electoral District of Placentia and St. Mary's, and shall be represented in General Assembly by three members.

The District of Burin shall be comprised within the limits of the present Electoral District of Burin, and shall be represented in General Assembly by two members.

The District of Fortune Bay shall be comprised within the limits of the present Electoral District of Fortune Bay, and shall be represented in General Assembly by one member.

All that part of the south coast of the Island, lying between Bonne Bay and Cape Ray, with the Islands adjacent thereto, shall form an Electoral District, to be called the District of Burgeo and LaPoile, and shall be represented in General Assembly by one member.

4. The qualification of persons to be elected to serve as members of the Assembly of this Island shall be, as heretofore, a net annual income arising from any source whatever of four hundred and eighty dollars, or the possession of property clear of all incumbrances exceeding two thousand four hundred dollars; and the length of the period of residence within the said Island which is required in addition to any other qualification for being elected to the General Assembly aforesaid, shall be the period of two years next preceding such election, such person being of the full age of twenty-one years and upwards, of sound understanding, and being a male British subject, or having been lawfully naturalized, and never having been convicted in due course of law of any infamous crime.

CHAPTER 3.

OF THE REGISTRATION OF VOTERS.

SECTION

- 1—None but persons registered to vote.
- 2—Districts to be assigned to Justices for procuring and revising lists.
- 3—Constables to prepare lists. Copies to be affixed on Court Houses, &c.
- 4—Persons once registered not required to make subsequent claim.
- 5—Proceedings where voters absent.
- 6—Constables to make returns.
- 7—Justices, before opening Court of Revision, to make out general list.
- 8—Justices may note in lists as "objected to" persons they consider not entitled to vote.
- 9—Lists to be signed by Justices and affixed to Court Houses, &c.
- 10—Lists to be perused without fee.
- 11—Registered voters may object to persons not entitled, and notify them.
- 12—Court of Revision. Proceedings therein.
- 13—Power of adjournment. Justices may administer oaths.
- 14—Justices to determine claims, sign the lists, &c.

SECTION

- 15—Lists to be copied into a registry book.
- 16—Lists to be transmitted to chief Magistrate and by him to Colonial Secretary.
- 17—Register to be transmitted to Returning Officer and returned with the writ.
- 18—Appeal to Quarter Sessions.
- 19—Proceedings where voter's name is omitted from Registry and vote tendered to Returning Officer.
- 20—Proceedings by Returning Officer where voter's qualification has arisen before day of election only.
- 21—No more than one vote allowed for any one dwelling house. Definition of "dwelling house."
- 22—Governor may put provisions of this chapter in operation for any election taking place before expiration of the four years.
- 23—Magistrates may in certain cases exercise same powers as Courts of Sessions.
- 24—Paupers disfranchised in certain cases. Schedule.

1. No person shall be entitled to vote at the election of any member to serve in the House of Assembly whose name shall not have been previously registered in the manner required by this chapter.

2. At the Courts of General or Quarter Sessions of the Peace, to be held in the several Districts of this Island at such times and places as the Governor shall by his proclamation appoint, the Justices at such Sessions shall once in every four years make out lists of all the inhabited places within their respective districts, and shall assign to each of such Justices within such district, a particular division thereof within which such Justices shall act in procuring and revising the lists required by this chapter; and such Justices shall give orders or instructions in writing to the respective constables residing within the divisions to them respectively assigned, for such constables to make out alphabetical lists according to the form No. 1 in the schedule hereunto annexed, of all persons entitled to vote at such elections as aforesaid,

who reside at such places or within such limits as such Justice may by such orders or instructions assign to such constables respectively, and of all persons who shall claim to be inserted in such lists.

3. Such constables shall prepare such lists accordingly, and shall cause copies thereof to be fixed on the Court House or near the doors of all Churches, or other places of public worship within such town or place; or if there be no such Court House, Church or place of public worship, then on some public place within such town or place, and shall also affix thereto a notice according to the form No. 2 in the schedule to this chapter annexed, requiring all persons whose names are not included in such lists, and who may consider themselves entitled to vote at such election, to deliver or transmit to the said constables on or before the time mentioned in such notice, a notice of their claim as such voters, according to the form No. 3 in the said schedule, or to that effect.

4. After the formation of the register to be made in each year as hereinafter mentioned, no person whose name shall be upon such register for the time being shall be required thereafter to make any such claim as aforesaid, so long as he shall retain the same qualification and continue in the same place of abode described in such register.

5. Any person who may have been absent from his usual dwelling-place during the whole time when the list prepared by the constable was posted up in such place, and whose name shall have been omitted from such list, may at any time before the closing of the Court of Revision give notice to the revising Magistrate of his claim to be inserted in such list; and such revising Magistrate shall, if satisfied of his right to be inserted in such list, insert his name therein accordingly.

6. The said constables shall, to the best of their knowledge and information, insert the names of all qualified persons into such lists, and deliver and duly make return of all such lists to the Justices by whose directions such constables have acted in making out such lists.

7. The Justices of each of the said districts shall, on or before the day appointed for that purpose by them, make out according to form (No. 5) in the said schedule a general alphabetical list of all persons within the several divisions of their respective districts entitled to vote at such election, or who shall claim to be inserted in such list as voters in the election of a representative to serve for such district, in respect of any house or tenement occupied by them; and such lists shall con-

tain the Christian name and Surname of every person written at full length, together with the place of his abode and the local description of the dwelling house or tenement, as the same are set forth in his claim to vote.

8. The Justices, if they shall have reasonable cause to believe that any person so claiming, or whose name shall appear in the register for the time being, is not entitled to vote in the election of a member for the district in which his place of residence is stated to be situate, shall have the power to add the words "objected to" opposite the name of every such person on the margin of such list.

9. The Justices, or one of them, in each respective division of the district, shall sign such list, and shall cause a sufficient number of copies thereof to be written or printed, and to be fixed on the Court House or near to the doors of all the Churches or other places of public worship therein; or, if there be none such, then to be posted up in some public places therein.

10. The Justices shall likewise keep a true copy of such list to be perused by any person, without payment of any fee, at all reasonable hours, during the period of the sitting of their respective Courts of Revision after the said list shall have been made.

11. Every person who shall be upon the register for the time being of voters for any district, or any constable of the District, may object to any person as not having been entitled to have his name inserted in any list of voters for such district; and every person so objecting (save and except Justices objecting in the manner hereinbefore mentioned) shall, on or before the opening of the Court of Revision, give or cause to be given a notice in writing according to the form (No. 3) in the said schedule hereunto annexed, or to the like effect, to the Justices who shall have made out the list in which the name of the person so objected to shall have been inserted; and the person so objecting shall also, on or before the said time, give to the person objected to, or leave at his place of abode as described in such list, a note in writing according to the form (No. 4) in the said schedule, or to the like effect.

12. On a day to be appointed and publicly notified by them, the Justices shall, in their respective divisions of each and every district of this Colony, once in every four years, except as hereinafter mentioned, hold open Courts of Revision at the places within the respective districts in which they reside, and such Court shall be held by one or

more Justices; and such Justices respectively shall there produce the several lists of voters so taken for that division of such district, and also a list of the persons objected to, so made out; and the said constables shall answer upon oath all such questions as the said Justices may put, touching any matter necessary for revising the list of voters. And such Justices shall retain on the list of voters the names of all persons to whom no objection shall have been made in the manner hereinbefore mentioned, and shall also retain on the list of voters the name of every person who shall have been objected to, unless the party objecting shall appear by himself, or some one on his behalf, in support of such objection; and where the name of any party, inserted in the list of voters shall have been objected to by any person, and such person so objecting shall appear by himself, or some one on his behalf, in support of such objection, every such Justice shall require it to be proved that the person so objected to was entitled on the opening of the said Court of Revision to have his name inserted in the list of voters; and in case the same shall not be proved to the satisfaction of such Justice, the name of such person shall be expunged from the list; and if it shall happen that any person who shall have given to the said Justices, or the said constables respectively, due notice of his claim to have his name inserted in the list of voters, shall have been omitted by such constable or magistrate from the said list, such Justice shall, upon the revision of such list, insert the name of the person so omitted, in case it shall be proved to the satisfaction of such Justice that such person gave due notice of his claim, and that he was entitled, on the opening of the said Court of Revision, to be inserted in the list of voters in the election of a member for the said respective districts.

13. All Justices holding any Court under this chapter, shall have power to adjourn the same from time to time for the space of ten days, and from any one place to any other place, within their respective divisions of the district; and shall also have power to administer oaths to all persons objected to or claiming to be inserted in any such lists and to all witnesses who may be tendered on either side; and if any person taking any oath under this chapter shall wilfully swear falsely, such person shall be guilty of perjury, and punished accordingly.

14. Such Justices shall, upon such hearing in open Court, determine upon the validity of all claims and objections, and shall write their

names or initials against the names respectively struck out or inserted, and against any part of the said lists in which any mistake shall have been corrected, and shall sign their names to every page of the several lists so settled; and such lists of voters so signed shall be kept among the records of the Courts of Sessions of the respective districts.

15. Such Justices shall forthwith cause the said lists to be truly copied, in alphabetical order, in a book or register; and shall prefix to every name so copied out its proper number, beginning the number from the first name, and so continuing to the last name.

16. Such register or book of voters shall be completed and delivered to the Chief Magistrate of the district, in sufficient time before the then or next General or Quarter Sessions of the Peace for such district; and a true copy of such register shall be transmitted by such Chief Magistrate immediately after such General or Quarter Sessions to the Colonial Secretary.

17. For the purpose of every election the Colonial Secretary shall transmit a copy of such register to the proper Returning Officers, who, after such election, shall return the same with the writ.

18. Any person claiming to vote in the election of a member for any district aforesaid who shall feel aggrieved by the decision of any Justice as to his claim to vote, may appeal to the then or next General or Quarter Sessions of the Peace for the district; and the Justices at such General or Quarter Sessions shall revise and alter the said list of voters, by the addition of the name of such person, if it shall appear to the satisfaction of such Justices that such person was, on the opening of the Court of Revision, duly qualified to vote as an elector of the said district.

19. Any person whose name shall have been omitted from any registry of voters in consequence of the decision of any such Justices or any Court of Sessions which shall have revised the lists from which such register shall have been formed, may tender his vote at any election at which such register shall be in force, stating at the time the name of the candidate for whom he tenders such vote; and the Returning Officer, or his deputy, shall enter upon the poll book every vote so tendered, distinguishing the same from the votes admitted and allowed at such election.

20. In case any person claiming to vote at any such election, and

who shall have tendered his vote at the same, not having been registered according to the provisions of this chapter, shall make it appear to the satisfaction of the Returning Officer at such election that he has actually occupied a dwelling-house for twelve months next before the day of such election, and that such twelve months had not expired on the opening of the Court of Revision, and is otherwise qualified according to law to vote at such election, such person shall be entitled to have his name entered on the poll book, in like manner as if his name had been registered as herein provided.

21. No more than one person shall be registered as a person entitled to vote for or in respect of the occupation of any one dwelling house; and for the purposes of this chapter any tenement shall be deemed a dwelling house for which the occupier pays rent by the year, and of which he has the exclusive possession.

22. In the event of any election being appointed to take place at any time before the expiration of the period of four years limited for taking and revising the said lists, and after the expiration of one year from the time when such lists shall have been last taken and revised, the Governor in Council may cause the provisions of this chapter to be put into operation in any of the districts of this Island, with such alterations in the manner of taking and revising the said lists as may be found necessary.

23. A Stipendiary Magistrate or Justice, by direction of the Governor in Council, may exercise all the powers conferred by this chapter on a Court of General or Quarter Sessions in any district or subdivision of district where such Sessions may not be held.

24. No person who shall have received relief as a pauper from or out of the public moneys, within one year after or at any time during the year preceding any election of a member to serve in the House of Assembly, shall be competent to vote at such last election; and the parties revising the list of electors shall strike therefrom the names of all persons who shall have received relief as aforesaid.

SCHEDULE.

No. I.

District of }
 }

The list of persons entitled to vote in the election of a member (or members) for the district of _____ in respect of dwelling houses situated within the port (cove or harbour) of _____ in the vicinity thereof.

CHRISTIAN NAME AND SURNAME OF EACH VOTER AT FULL LENGTH.	PLACE OF ABODE AND QUALIFICATION.	STREET, LANE, ROAD, &c.
ADAMS, JOHN.	ST. JOHN'S, Fisherman.	KING'S ROAD.

No. 2.

(Notice by Constable to be attached to or published with the List of Voters.)

I hereby give notice that the Justice of the Peace for this district, will, on or before the _____ day of _____ in this year, make out a list of all persons entitled to vote in the election of a member (or members) to represent the _____ district of _____ in the General Assembly. And all persons so entitled, and whose names are not included in the above list, are hereby required to deliver or transmit to me, on or before the _____ day of _____ in this year, a claim in writing, containing their Christian names and Surnames, and the name of the harbour or cove and place where the dwelling house they claim to occupy is situate.

[A. B., Constable.]

No. 3.

(Notice of Claim to be given to the Magistrate or Constable.)

I hereby give you notice that I claim to be inserted in the list of the voters for the district of _____ and that the particulars of my place of abode and qualification are stated below.

Dated at _____ the _____ day of _____ &c.

To Mr. E. F. or G. H., Esq.

C. D.

No. 4.

(Notice to be given to the voter objected to by the party objecting.)

I hereby give notice that I object to your right of being registered
as an elector for the district of _____ Dated at _____ the
day of _____ &c. J. K.

No. 5.

District of }
}

The list of persons entitled to vote in the election of a member (or members) for the district of _____ in respect of dwelling house, situate in the _____ division of the said district.

CHRISTIAN NAME AND SURNAME OF EACH VOTER AT FULL LENGTH.	PLACE OF ABODE AND QUALIFICATION.	STREET, LANE, OR OTHER LOCAL DESCRIPTION.
AGNEW, ANDREW.	ST. JOHN'S, Fisherman.	CHURCH HILL.

CHAPTER 4.

OF ELECTION EXPENSES.

SECTION

- 1—Amount to be paid to Returning Officer for each Member returned.
- 2—Fee from Candidate where no contest.

SECTION

- 3—Fees from Candidate where contest.
- 4—Fees to be paid before nomination; amount to be paid by Candidate.

1. The Returning Officer for each district shall be entitled to receive from the Colonial Treasury seven dollars for every member returned for such district.

2. When there is no contest he shall be entitled to three dollars from every candidate for such district.

3. When there shall be a contest and poll demanded, five dollars for every candidate instead of three dollars; and further, when there shall be a contest, there shall be paid to the Returning Officer of each district, by the candidates for such district, in just proportions according to the number of polling places in which each candidate is interested, the following sums :—four dollars for procuring a booth or

polling place for each district or division of district, except where the polling place shall be a public building that can be had without charge; five dollars for every presiding officer, and three dollars for every poll clerk, to include their travelling fees.

4. The fees of candidates shall be paid to the Returning Officer for each district on the day of nomination, and the name of no candidate shall be entered on the Returning Officer's poll book, or returned to presiding officers, who shall not have paid or tendered the full amount due from him under this section before the expiration of the time named for the nomination of candidates; provided always, that the amount to be paid by any candidate shall not exceed the sum of forty-six dollars.

CHAPTER 5.

OF VACATION OF SEATS.

SECTION

- 1—Member accepting office of emolument from Crown, seat to become vacant.
- 2—Governor to issue writ for election in place of Member accepting office or resigning.
- 3—Member may be re-elected.
- 4—Member resigning and offering as Candidate to pay expense of election.

SECTION

- 5—Member accepting office in certain cases not to vacate seat.
- 6—Seat of Member declared insolvent to become vacant.
- 7—Insolvent Member, on obtaining certificate, may be re-elected. Form of resignation.

1. Any Member of the House of Assembly of the Island who shall accept any office of emolument from the Crown, his seat in the House of Assembly shall immediately thereupon become vacant.

2. Whenever any Member shall accept any such office as aforesaid, or any Member who shall be desirous of resigning his seat as a Member of the said House of Assembly, shall, by writing under his hand, in the form hereunto annexed, tender to the Governor the resignation of his seat in the said House of Assembly, the Governor shall issue a writ, after such acceptance of office or resignation aforesaid, for the election and return of a Member in place of him so accepting office or resigning, as aforesaid.

3. Nothing herein contained shall prevent a Member so accepting office or resigning his seat, as aforesaid, from being re-elected a Member of the said House of Assembly.

4. Any Member so resigning, and offering himself as a candidate at the election consequent on such resignation, shall bear the expenses of such election so far as the same have been usually borne by the Colony, and shall, before he shall be nominated as a candidate for such election, deposit with the Colonial Secretary such sum of money, not exceeding the amount paid by the Colony for the last preceding election of the district for which such Member was returned, as the Governor in Council shall direct; which sum, or so much thereof, as may be required for that purpose, shall be applied by the said Colonial Secretary in discharge of such expenses.

5. Nothing herein contained shall extend, or be construed to extend, to vacate the seat of any Member of the House of Assembly who may accept a commission or appointment in Her Majesty's Army or Navy, or who may accept any office which is now or may be hereafter compulsory or obligatory by the imposition of any fine or penalty by the laws of this Island, or who shall accept any acting appointment, where such acting appointment shall not continue beyond the period of six calendar months.

6. Whenever any Member of the said House of Assembly shall be declared bankrupt or insolvent, the seat of such Member shall immediately thereupon become vacant, and the Governor shall issue a writ for the election and return of a Member in the stead of him so declared bankrupt or insolvent.

7. Nothing herein contained shall prevent such Member so declared bankrupt or insolvent from being re-elected a Member of the said House of Assembly, he having first obtained a certificate of discharge pursuant to law, and being otherwise duly qualified.

FORM OF RESIGNATION.

To His Excellency, &c.

MAY IT PLEASE YOUR EXCELLENCY,—

I, the undersigned, A. B., of
General Assembly for the district of
seat as Member for the said district.

Esquire, Member of the
do hereby resign my

Given under my hand at this
Signed by the said A. B. in }
presence of us, }
C. D., of &c. }
E. F. }

day of A. D. 18

CHAPTER 6.



OF LEGISLATIVE DISABILITIES.

SECTION

1—No persons holding office under Government eligible to be elected as Members of Assembly. Exceptions.

SECTION

2—Contractors disqualified. Exceptions.
3—Penalty if party disqualified sit or vote.

1. No person who shall hold any office, place or appointment of profit or emolument from or under the Government of this Colony, or from or under either branch of the Legislature, or from or under any board or public body, the members whereof are nominated by the Government, shall be eligible to be elected, or to sit or vote, as a Member of the House of Assembly. Provided, this section shall not apply to the respective persons who may hold the offices of Attorney General, Colonial Secretary, Receiver General, Solicitor General, Surveyor General, Financial Secretary, nor to the Speaker, nor to the Chairman of Committees of the House of Assembly, nor to such members of the House of Assembly as shall be Directors of the Savings Bank, nor to the Chairman of the Board of Works.

2. Any person who shall, directly or indirectly himself, or by any person whomsoever in trust for him, or for his use and benefit, or on his account, undertake, execute, or enjoy in the whole or part any contract or agreement for or on account of the public service, shall be incapable of being elected, or of sitting, or voting, as a member of the Assembly during the time he shall execute, hold or enjoy any such contract, or any part or share thereof, or any benefit or emolument arising therefrom; and if any person, being a member of the said House of Assembly, shall, after such time as aforesaid, enter into any such contract or agreement, or having entered into shall continue to hold it, his seat shall be declared by the said Assembly to be void, and the same shall become void accordingly. Provided, this section shall not apply to a member of any incorporated body where such corporation shall contract for the benefit of the company, nor to persons taking or holding debentures of the public debt.

3. If any person hereinbefore disabled or declared to be incapable to sit or vote in the House of Assembly of this Colony shall be elected

and returned a member for any district, such election and return shall be void ; and if any person so disqualified as aforesaid shall presume to sit or vote as a member of the said House of Assembly in any General Assembly, such person so sitting or voting shall, for each time he shall sit or vote, forfeit the sum of two hundred and thirty dollars, to be recovered by any person who may sue for the same in the Supreme Court.

CHAPTER 7.

OF VACANCY IN THE OFFICE OF SPEAKER.

SECTION 1.—When Speaker unable to attend, House may elect member to act as Speaker.

1. Whenever the Speaker of the House of Assembly shall be unable to attend the House, upon the same being certified to the satisfaction of the House, the members or a majority of them present may elect from amongst them one of such members who shall, during the absence of the said Speaker, take the chair and act as Speaker ; and every act passed and every order made and thing done by the said Assembly, whilst such member is acting as Speaker, as aforesaid, shall be as valid and effectual as if done whilst the Speaker himself was presiding in the chair.

CHAPTER 8.

OF CONTROVERTED ELECTIONS.

SECTION

- 1—Time to be appointed for consideration of petition.
- 2—Petition not to be received after 30 days from the time when member whose return is complained of takes his seat.
- 3—Recognizance to be entered into before proceeding on petition.
- 4—How recognizance entered into.
- 5—List of objected votes to be handed to the chairman of committee before proceeding on petition.
- 6—House to be called before proceeding on enquiry.
- 7—Fifteen members being present, the parties to attend at the bar, and names of eleven members present to be drawn by ballot.
- 8—Name of member interested in the enquiry to be set aside if drawn.
- 9—Member drawn, when excused.
- 10—Mode of drawing and nominating.
- 11—House to proceed as in section six in case the drawing of eleven members cannot be completed.
- 12—Mode of swearing and selecting the members to try the petition.
- 13—Name of member intended to be nominated to be set aside; nominee to serve; party making default; names of members to be drawn to fill up the number required for the committee.
- 14—The sitting member not appearing, how committee to be appointed.
- 15—Chairman, how elected.
- 16—Proceedings in case of members of committee absenting themselves. Committee to adjourn when two members absent.

SECTION

- 17—Power of committee.
 - 18—Number of members of committee reduced below five by death, &c., new committee to be formed.
 - 19—Interlocutory decision of committee referred to House.
 - 20—Witnesses, &c., to be committed for contempt in certain cases.
 - 21—Committee, how to deliberate on matters submitted.
 - 22—Committee may examine a petitioner as a witness.
 - 23—Report of committee on petition.
 - 24—Petition reported frivolous or vexatious, the adverse party to recover full costs, &c.
 - 25—Opposition to petition reported frivolous and vexatious, the party opposing to pay costs, &c.
 - 26—Irregularities in proceedings may be amended by House.
 - 27—Expenses and costs, how taxed and recovered.
 - 28—Contribution between parties as to payment of costs.
 - 29—Recognizance forfeited, how put in force.
 - 30—Committee not to be dissolved by prorogation of House.
 - 31—Mode of drawing list, &c., when more than one petition to be tried at same time.
 - 32—Moneys received under recognizance to be paid to the Receiver General.
 - 33—Commission for examination of witnesses may be issued.
- Form of Recognizance.
Form of Commission, &c.

1. When a petition complaining of an undue election or return of a member to serve in the House of Assembly shall be presented to the House, a day and hour shall be appointed by the House for consideration thereof, and the Speaker shall forthwith in writing notify all parties concerned or their agents, commanding their attendance at the bar of the House at the time appointed; and if at such time the petitioner

shall not appear, either personally or by counsel or agent, the order for taking the petition into consideration shall be discharged and the petition shall not be further proceeded in unless the House, on sufficient cause shown, shall order otherwise.

2. No such petition shall be received after thirty days shall have elapsed from the time the member whose return is complained of shall have taken his seat.

3. No proceedings shall be had upon any such petition unless a petitioner shall, within ten days after the presentation thereof, or such further time as shall be limited by the House, personally enter into a recognizance to Her Majesty the Queen, with sureties, in the sum of one thousand dollars, which recognizance shall be in the form in the schedule to this chapter; and if at the expiration of the said ten days the recognizance shall not have been so entered into, or been received by the Speaker, he shall report the same to the House, and the order for considering the petition shall be discharged, unless upon matter specially stated and verified on oath before a Justice the House shall enlarge the time for entering into such recognizance; and if enlarged, the order may be postponed; but no petition shall be taken into consideration till after the recognizance shall have been entered into and received by the Speaker.

4. The recognizance shall be entered into before the Speaker or, if taken out of the electoral district of St. John's, before a Justice, and the sureties shall in all cases severally justify before the Speaker or Justice, by affidavit, that they are severally worth double the sum for which they are respectively bound by such recognizance after payment of all their just debts, which affidavit may be dispensed with by the parties.

5. In every controverted election or return the parties shall at such time as the select committee may appoint therefor, and before proceeding on the petition, cause to be delivered to the chairman lists of the votes objected to, or those improperly rejected or omitted either by the Court of Revision or at the Polls, specifying the nature of the objections or grounds against such rejection or omission, and no evidence shall be allowed before such committee on such lists unless on the grounds therein specified as aforesaid, and the committee shall amend the register of voters according to the evidence.

6. Previously to reading the order of the day for considering the

petition, the House shall be called, and if there be less than fifteen members present, the House shall forthwith adjourn to a particular hour the next day, when they shall proceed in like manner, and so from day to day, until there be fifteen members present at the reading of such order, in which number the Speaker shall not be included.

7. If, after a call, fifteen members be present, the parties, by themselves, their counsel or agents, shall be ordered to attend at the bar; the doors of the House shall be locked, and no member shall enter into or depart therefrom until the parties, their counsel or their agents, shall be directed to withdraw. When the doors are locked the order of the day shall be read, and the names of the members of the House then present written on distinct pieces of paper, as near as may be of equal size, and, rolled up in the same manner, shall be put in equal numbers into two boxes, placed on the table and shaken together; the clerk or his assistant shall publicly draw out of the said boxes, alternately, the said pieces of paper, and deliver the same to the Speaker, who shall read them to the House, and so continue to do until eleven names of the members then present be drawn.

8. If the name of any member be drawn who shall have voted at the election complained of, or who shall be a petitioner complaining of an undue election, or against whose return a petition shall be then pending, it shall be set aside; and if the name of a member of another election committee during the same session be drawn, he may be excused.

9. The House may also excuse any member from serving if it appear on oath of such member, to be taken before the clerk of the House, to be attended with great detriment to him.

10. The drawing shall continue until the whole number of eleven members be complete, when the petitioner and sitting member shall then each name one from among the members then present, to be added to those drawn; but either of the members so named may be set aside or excused for any of the same causes as those drawn, and another shall be nominated by his nominor, and so on until his nominee is admitted.

11. If, at the time of the drawing, the number of eleven members cannot be completed, the House shall proceed in the manner prescribed in section six of this chapter.

12. When the drawing shall be completed the door of the House

shall be unlocked, and lists of the eleven members so drawn shall be given to each party, and they shall immediately retire with the clerk or his assistant; and each party, his counsel or agent, beginning on the part of the petitioners, shall alternately strike off one of the eleven members until the number shall be reduced to five; and the clerk or assistant, within one hour at furthest from the time of the lists being given, shall deliver into the House the names of the five members then remaining with the names of the nominees added thereto; and said five members, with the nominees, shall be sworn at the table, by the clerk or his assistant, well and truly to try the matters of the petition referred to them, and true judgment to give according to the evidence, and who, when sworn, shall be a select committee to try and determine the merits of the said return or election, and shall meet at the time and place to be determined by the House.

13. When the name of any member shall be drawn, and either of the parties shall declare that he is intended to be a nominee, and he consent thereto, his name shall be set aside, and unless objected to for any of the causes hereinbefore mentioned, he shall serve as such nominee, and the name of another member shall be drawn to supply his place; if the parties shall not nominate a member then present, the name of one or two members, as the case may require, shall be drawn in like manner and subject to like objections and excuses as members already drawn, who shall be added to the list, and shall be liable to be struck off in the same manner, leaving always the number of seven members for the select committee.

14. If, at the time appointed for considering the petition, the sitting member shall not appear by himself, or his counsel or agent, the committee shall be appointed as follows: the names of eleven members shall be drawn in manner hereinbefore prescribed; but in reducing the lists, the clerk or clerk-assistant shall stand in the place of the sitting member, and the same method of reducing the number shall be followed when a party waives his right of striking off names.

15. The committee shall, on their meeting, elect by a ballot a chairman from among the members thereof who shall have been drawn, and in electing a new chairman, on the death or necessary absence of the chairman first elected, if the committee be equally divided, the member of the committee whose name was first drawn in the House shall have the casting vote. No member of such committee shall absent himself

therefrom without the leave of or excuse allowed by the House, or special cause shown by affidavit. The committee shall not sit until the members not having such leave or excuse are met, and if they shall not all meet within one hour after the time to which the committee shall have been adjourned, a further adjournment shall be made and reported, with the cause thereof, to the House.

16. The chairman at the next meeting of the House shall report the name of any member absent therefrom without such leave or excuse, and such member shall be directed to attend the House at the next sitting thereof, and shall then be delivered into the custody of the Sergeant-at-Arms for such neglect, and otherwise punished or censured at the discretion of the House, unless he shall make it appear to the House, by affidavit, that he was by accident or necessity prevented from attending. If more than two members of the committee be absent, they shall adjourn from time to time until five members are present.

17. The committee may send for persons, papers or records, and shall examine all witnesses on oath, to be administered by the chairman, and shall determine by a majority whether the petitioner or the sitting member, or either of them, be duly elected or returned, or whether the election be void, which determination shall be final; and the House, on being informed thereof by the chairman, shall order the same to be entered in the journals, and give the necessary directions for carrying such determination into execution.

18. If the number of members able to attend the said committee shall, by death or otherwise, be unavoidably reduced to less than five, and so continue for the space of six consecutive days, the said committee shall be dissolved, and another chosen in the manner and for the purposes aforesaid; but the evidence already taken shall be considered by the new committee.

19. If the said committee shall come to any other resolution than a final determination, they shall report the same to the House for their opinion, the chairman informing the House of such determination; and the House may make such order thereon as they deem proper.

20. If any person summoned by the said committee shall disobey such summons, or if any witness before such committee shall prevaricate or otherwise misbehave in giving or refusing to give evidence, the chairman, by the direction of the committee, may at any time during the course of their proceedings report the same to the House, who may

commit the offender for the contempt during pleasure; and all persons who shall be guilty of wilful and corrupt perjury in any evidence which they shall give before the House, or the committee, under the oath to be taken by virtue of this chapter shall, on conviction thereof, suffer the penalties incident thereto.

21. Whenever the committee shall deem it necessary to deliberate among themselves upon any question arising in the course of the trial, or upon the determination thereof, or upon any resolution concerning the matter of the petition when they shall have heard the evidence and the parties or their counsel relative thereto, the room shall be cleared during deliberation; all such questions, determinations, and resolutions, shall be decided by a majority.

22. The committee may examine any person as a witness, although he may have subscribed the petition to try and determine such election or return.

23. The committee, when they report to the House their final determination on the merits of the petition, shall also report whether the petition is, in their opinion, frivolous or vexatious; and they shall also report with respect to every party who shall have appeared before them in opposition to such petition, whether in their opinion such opposition was frivolous or vexatious; and if no party shall have appeared before them in opposition, they shall then report to the House whether such election or return, as the case may be, was, in their opinion, vexatious or corrupt.

24. Whenever the committee shall report to the House that such petition, in their opinion, is frivolous or vexatious, the adverse party may recover from the petitioner all costs and expenses which he shall have incurred in opposing the same, which shall be ascertained as hereinafter directed.

25. Whenever the committee shall report to the House that the opposition to the petition appeared to them to be frivolous or vexatious, the petitioner may recover all costs and expenses which he shall have incurred in prosecuting such petition; the same to be ascertained as hereinafter directed.

26. Should either the sitting member or petitioner or his counsel make it appear to the House that any irregularity has occurred in carrying out the provisions of this chapter either by the House or committee, the House may amend such irregularity or may order such proceedings and trial to begin *de novo* within six days after notice from either party to the trial.

27. The expense of prosecuting or opposing a petition shall include witnesses' fees, as well as other costs and expenses, and shall be ascertained as follows: The Speaker, on application, shall direct them to be taxed by the Clerk of the House and a Master in Chancery, who shall tax the same and report the amount to the Speaker, who, on the approval of the House, or such part thereof as the House may allow, shall on application deliver to the parties a certificate under his hand expressing the amount of the expenses allowed; and the party entitled to such costs and expenses, or his executor or administrator, may demand the amount so certified from the party liable for the payment thereof; and in case of non-payment he may recover the same, with costs, in any Court of competent jurisdiction, in which action the plaintiff may declare that the defendant is indebted to him in the said amount by virtue of this chapter; and the Speaker's certificate of such amount shall be sufficient evidence in support of such action.

28. When the amount of such costs and expenses shall have been so recovered from any person, he may recover in like manner, from any other persons liable for the payment of the same, a proportionate share thereof, according to the number of persons so liable.

29. If the petitioner forfeit his recognizance, the Speaker shall certify such recognizance to the Supreme Court, and the default therein, which shall be conclusive evidence thereof, and the recognizance so certified, shall have the same effect as if the same were estreated from a Court of Law; but such recognizance so certified shall be delivered by the Clerk or Clerk-Assistant of the House to a Judge of the Supreme Court, or such officer thereof as the Court shall appoint to receive the same.

30. The prorogation of the General Assembly, pending the enquiry of the select committee, shall not dissolve the said committee, but they shall be thereby adjourned to twelve of the clock of the day immediately following that on which the Assembly shall again meet for the despatch of business, (Sundays, Good Friday, and Christmas Day, always excepted,) and their former proceedings shall be of the same force as if the House had not been so prorogued.

31. Should there be more than one petition complaining of undue election or return to be considered by the House on the same day, the House may draw and complete, in the manner before mentioned, another list to form the committee on the second petition, according to the provisions of this chapter, if not less than twenty-five members be present, exclusive of the Speaker.

32. All moneys recovered and received under any recognizance forfeited under this chapter shall be paid into the Colonial Treasury.

33. The committee may, at any time during the inquiry, issue a commission for and order the examination, on oath, of witnesses resident beyond the judicial district of St. John's, before a commissioner, to be named by the committee, upon interrogatories and cross-interrogatories to be furnished by the parties, and annexed to the said commission, upon its being made to appear that the evidence of the witnesses sought to be examined is material and necessary, and cannot be otherwise supplied without great expense and inconvenience to the parties. Such examination to be confined to the witnesses whose names appear in the said commission, and to the said interrogatories and cross-interrogatories. The commission, when executed, shall be returned without delay to the said committee, addressed to the chairman thereof, and the evidence thereunder taken may be read before the said committee as evidence in the cause of the said petition, saving all just exceptions; the expense of said commission shall, in the first instance, be borne by the party applying for the same, and on the final hearing shall be, in the discretion of the committee, as costs in the cause. Such commission shall be in the form in the schedule annexed, signed by the chairman of said committee, and be under his seal.

SCHEDULE.

FORM OF RECOGNIZANCE.

On the day of A. D., 18 , before me D. H., Speaker of the House of Assembly of Newfoundland, (or J. K. Justice for the District) came C. D., petitioner, of E. F., of and G. H., of and severally acknowledged to our Sovereign Lady the Queen, as follows: the said C. D., one thousand dollars, and the said E. F., and G. H., five hundred dollars each, to be levied on their respective goods and chattels, lands and tenements, to Her Majesty's use, if the said C. D. fail in performing the condition hereunder, which condition is, that if the said C. D. shall duly appear before the House of Assembly, at such time as shall be determined by the said House for taking into consideration the petition signed by the said C. D. complaining of an undue election (or return) for the district of and shall appear before any select committee which shall be appointed for the trial of the same, and also well and truly pay all expenses which shall be due and payable from the said petitioner to any witness who shall be summoned to give evidence in his behalf, on the trial of said petition; and if the said C. D. shall also well and truly pay all costs and expenses of the party opposing such petition, if the said petitioner shall

fail to appear before the House at the time fixed for taking such petition into consideration ; or if the said C. D. shall withdraw such petition by the permission of the House ; or if the select committee appointed by the House to try the matter of the said petition shall report to the House that the said petition appears to them to be frivolous or vexatious, then this recognizance shall be void, otherwise of force.

D. H., Speaker, or

J. K., Justice of the Peace.

COMMISSION.

To _____ of _____, Greeting :

Know you, that the committee appointed by the House of Assembly of this Island, to try and determine the legality of the return of _____, for the _____ district, to serve as a Member in the General Assembly of this Island, having confidence in your prudence and integrity, have appointed, and by these presents do appoint you, and do give to you full power and authority, diligently to examine upon certain interrogatories and cross-interrogatories to be exhibited to _____, of _____, witnesses on the part of (petitioner or respondent) respecting a certain petition now pending, wherein _____ is the petitioner ; and therefore the said committee command you that at certain days and places, to be by you appointed, you cause the said witnesses to come before you, and examine them apart on their corporal oath, taken before you, according to the form of their several religions, and that you reduce their examinations to writing, and send them under cover, addressed to the chairman of the said committee, at St. John's, in our said island, without delay, under your hand and seal, with the said interrogatories and cross-interrogatories, and the answers thereto, together with this commission.

And the said committee further command you, that before you act herein, you do take an oath before some Magistrate, or other party competent, well, faithfully, and without partiality to either of the parties, to take the examinations of the said witnesses, and that every clerk employed by you shall, before he act in this behalf, take an oath before you, well and faithfully, and without partiality to either of the parties, to take down, transcribe and engross the depositions of the said witnesses, as far forth as shall be directed by you.

WITNESS my hand and seal at St. John's, this _____

day of _____

A. D., 18 _____

Chairman of Select Committee on _____

Election Petition. [L. S.]

COMMISSIONER'S OATH.

You shall, according to the best of your skill and knowledge, truly and faithfully and without partiality to any or either of the parties

connected with this enquiry, take the examinations and depositions of all and every witness produced and examined, by virtue of the commission within written; upon the interrogatories and cross-interrogatories now produced and left with you.

CLERK'S OATH.

You shall truly, faithfully, and without partiality to any or either of the parties in this cause, take, write down, transcribe, and engross the depositions of all and every witness and witnesses produced before, and examined by the commissioner in the within commission named, as far forth as you are directed and employed by the said commissioner to take, write down, transcribe or engross.

WITNESS'S OATH.

You will true answer make to all such questions as shall be asked you upon the interrogatories and cross-interrogatories now produced and shown to you, without favor or affection to either party; and therein you shall speak the truth, the whole truth, and nothing but the truth. So help you God.

TITLE III.

The Administration of Justice.

CHAPTER 9.

OF THE SUPREME COURT, AND THE JUDGES, OFFICERS, SESSIONS, AND
CIRCUITS THEREOF.

SECTION

- 1—Jurisdiction of Supreme Court.
- 2—Chief Justice and two Assistant Judges, barristers of seven years' standing.
- 3—Court by one Judge except in certain cases.
- 4—Judges may sit apart.
- 5—Power to make rules, &c.
- 6—Transfer of cases.

SECTION

- 7—Chief Justice may accept certain offices.
- 8—Terms of Court.
- 9—Special terms by proclamation.
- 10—Chief Clerk Supreme Court at St. John's.
- 11—Chief Clerk to give security.
- 12—Tipstaff.
- 13—Commissioners of Affidavits.

1. The Supreme Court of Newfoundland shall have all civil and criminal jurisdiction whatsoever, conferred by the Imperial statute passed in the fifth year of the reign of his late Majesty, King George the Fourth, entitled "An Act for the better administration of Justice in Newfoundland and for other purposes," and by the Royal charter or letters patent under the great seal, issued by virtue of the said statute, and dated the nineteenth day of September, in the sixth year of his said Majesty's reign, and by any laws in force in this colony.

2. The said Supreme Court shall continue to be composed, as at present, of a Chief Justice and two Assistant Judges, to be appointed, when vacancies may occur, as heretofore, or as may hereafter be provided by her Majesty, which Chief Justice and Assistant Judges shall respectively be Barristers of at least seven years' standing; and the said Chief Justice and Assistant Judges shall respectively have and exercise the like privileges, powers and authorities in Newfoundland and its dependencies as are prescribed by the act, charter and laws aforesaid.

3. The Supreme Court may be held by one Judge, who may hear and determine all matters, except cases of treason and capital felony, when three Judges shall be present; and except motions for and hearing

of rules for new trials, motions in arrest of judgment, special cases, appeals, re-hearings in equity, probate, revenue and other cases, and transfers in matters of administration and probate, when at least two Judges shall be present: Provided that in these and in any other cases in which two Judges so sitting shall differ in opinion, the matter shall be re-heard as soon as conveniently may be by the three Judges, and the judgment of any two shall be the judgment of the Court; and provided further that nothing herein contained shall prevent the preferring and finding of any bill of indictment or any other proceeding incident to a charge of treason or capital felony, before less than three Judges, save the actual trial and sentence in such cases.

4. In term, when it may conveniently be done, the Judges, or any of them, may, as the Supreme Court, sit apart and separately from the other or others, at the same time, for the trial and determination of any matter which may be heard and determined by one or two Judges as the case may be; and the rising or adjournment of any one or more Judges, shall not affect the sitting of the remainder.

5. The Chief Justice and Assistant Judges may make and prescribe such rules and orders as may in cases not provided for be expedient, touching and concerning the forms and manner of proceeding and practice and pleading of the said Supreme Court. Such rules and orders shall be published in the *Royal Gazette* for one month before coming into operation.

6. The Supreme Court may, upon such terms as may be deemed reasonable, direct the transfer of any action or suit for trial from one place to another, and to or from the Supreme Court on Circuit; and the record and other proceedings in such cases, or copies of the same certified by the Clerk of the Court from which such transfer is made, shall be transmitted to the place of trial.

7. The Chief Justice may accept the office of Administrator of the Government of this Colony, and also of Judge of the Vice Admiralty Court, with the emoluments and fees to each of the said offices belonging, and any previous acceptance by the present Chief Justice of the said offices or either of them, or of any emoluments or fees derivable therefrom, shall not be an avoidance of the office of Chief Justice, anything in the said statute of the Imperial Parliament or Royal charter contained to the contrary notwithstanding.

TERMS OF THE SUPREME COURT.

8. There shall be at least two terms or sessions of the Supreme Court holden at the town of Saint John's in every year, the first whereof

shall commence on the twentieth day of May; and continue thence until the tenth day of June, and the second whereof shall commence on the twentieth day of November, and continue thence until the tenth day of December: Provided that if either of the days of commencement or of the close of the said terms shall fall upon a Sunday, then the Monday following shall be the first or last day of such term, as the case may be; and the Court may prolong either of the said terms by adjournment for a further period not exceeding six days, unless any cause shall be actually in the course of trial on the sixth day, when the Court may sit until the trial and adjudication shall have terminated. There shall be post terminal sittings, to continue for one week at least, from and after the first Mondays in February, March, April and July in each year.

9. Anything in the foregoing section notwithstanding, the Governor may at any time, by proclamation, direct a term or session of the said Court to be holden, with all the powers of the Court sitting during the terms so as aforesaid established.

OFFICERS OF THE SUPREME COURT.

10. There shall be a Chief Clerk and Registrar of the Supreme Court at St. John's, to be appointed by the Governor in Council, who shall perform such duties as are performed by the Master, Registrar, Accountant General or Prothonotary of the Courts of Record at Westminster, or by such officers as now in such Courts perform those duties and all other such duties as the Chief Clerk and Registrar has hitherto been in the habit of performing and now performs: Provided that the said Chief Clerk and Registrar shall not, whilst in the occupation of the said office, practice or act as barrister, attorney, advocate, solicitor, proctor, conveyancer, or notary public, or demand or receive any fee or compensation in connection with the last mentioned offices.

11. The Chief Clerk and Registrar of the Supreme Court shall give such security as shall be approved of by the Supreme Court for the safe keeping of, and accounting for, all monies paid into his hands by order of the Court.

12. There shall be a Crier and Tipstaff of the Supreme Court, whose appointment shall be in the Chief Justice.

13. There shall be commissioners of the Supreme Court for taking affidavits, for issuing process, mesne or final, and for taking bail within this Island and its dependencies, who shall be appointed under the seal of the Supreme Court, and under the hand of the Chief Justice, or in his absence of the senior Judge.

CHAPTER 10.

OF THE LAW SOCIETY AND OF BARRISTERS AND ATTORNEYS.

SECTION	SECTION
1—Society and enactments mentioned in preamble continued in force.	5—No one allowed to practice if under twenty-one years.
2—Rules and Regulations now in force to continue.	6—Period of service required.
3—Practitioners to have three articulated clerks and no more, at one time.	7—The treasurer and benchers to be nominated according to the rules.
4—Barristers of Superior Courts in England, Scotland, and Colonies eligible as members.	8—Barristers and advocates of the Supreme Court admitted to practice as attorneys. Proviso.

Whereas by Statute 4, William IV., chapter 23, it was enacted that it should be lawful for the persons then admitted in the law and practising at the bar of her Majesty's Superior Courts of this island to form themselves into a society to be called "The Law Society of Newfoundland," and the said society was thereby authorized to form a body of rules and regulations for its own government, under the inspection of the Judges of the Supreme Court of this island for the time being as visitors of the said society, and to appoint six members or more of the then practitioners, and such six members or more for the time being, in all times to come, whereof her Majesty's Attorney General and Solicitor General for the time being should be two, as governors and benchers of the said society; and also to appoint a librarian and treasurer.

1. The Law Society and the enactments aforesaid are continued in force.

2. Such rules and regulations as have already been confirmed, approved and adopted by the said society, shall continue to be the constitution of the said society, and binding upon all its members. Provided that it may add other rules and regulations, with the approbation of the Judges.

3. Every person now practising at the bar of any of her Majesty's Superior Courts of this island, or who shall hereafter be duly authorized to practise as aforesaid, may have three articulated clerks at one time, and no more.

4. Any person called to the bar of any of her Majesty's Superior

Courts not having merely local jurisdiction in England, Scotland, or Ireland, or in any of Her Majesty's colonies, in which the same privilege would be extended to barristers of this island, on producing sufficient evidence thereof, and also on producing testimonials of good character and conduct, to the satisfaction of the society, and who shall undergo a satisfactory examination, may be called by the said society to the degree of barrister upon his entering himself of the society, and conforming to all the rules and regulations thereof.

5. No person shall be admitted as an attorney or barrister of this island who shall not have attained the full age of twenty-one years.

6. No person shall be admitted by the Supreme Court to practice as an attorney of this island unless upon an actual service of five years with some practising attorney of this island, or if a regular graduate of any college in her Majesty's dominions of four years, or who having been entered upon the books of the said society as a student-at-law, shall have been subsequently called to the bar in England, Scotland, Ireland, or any of her Majesty's colonies : Provided that if at any time there shall not, in the opinion of the Supreme Court, be a sufficient number of fit persons practising as attorneys in Newfoundland to conduct the ordinary business of the island, in the different Courts of Justice established therein, the said Supreme Court may admit any barrister who may have been so called to the degree of a barrister in this island, to practice also as an attorney in the several Courts thereof.

7. The treasurer and benchers of the said society, and their successors to be nominated and appointed according to the rules and by-laws of the said society, shall be a body corporate and politic, in deed and in law, by the name of the " Law Society of Newfoundland ;" and shall have perpetual succession and a common seal, with power to break, alter, change, or make new the same ; and they and their successors, by the name aforesaid, may sue and be sued, implead and be impleaded, answer and be answered unto, in all or any Courts of record, and places of jurisdiction within this island ; and shall be capable in law to have, hold, receive, enjoy, possess, and retain for the end and purposes of this chapter, in trust for the benefit of the said Society, such money as shall be given, devised, or bequeathed by any person for the use of the said society ; and shall at any time hereafter, without any license of mortmain, purchase, take, have, hold, receive, possess and enjoy all lands, tenements or hereditaments, for the purposes of the said society, and for no other purpose whatsoever ; and may also, in the same manner, sell, grant, lease, demise, alien or dispose of the same, and do and

execute all and singular other matters and things that to them shall appertain to do.

8. Every person who either now is or may be admitted to practice as a barrister or advocate in the said several Courts of this island, may practice also as an attorney, solicitor, and proctor, in all Courts of record or places of jurisdiction within this island on taking the usual oaths before one of her Majesty's Judges of the Supreme Court: Provided that every such person shall, previous to his being admitted to practice as an attorney, solicitor, or proctor, pay to the society all such fees as would be payable by such person were such person entered on the books of the society as a student-at-law, in order to his admission as an attorney of this island.

CHAPTER 11.

OF THE CIRCUITS.

SECTION

- 1—Circuits of the Supreme Court in the northern and southern districts by proclamation.
- 2—Appeal.
- 3—Duties of clerks, northern and southern districts.

SECTION

- 4—Judge on circuit may reserve questions in criminal cases.
- 5—Transfer of cases.
- 6—Issue and return of writs.
- 7—Circuit Courts abolished.

1. There shall be circuits of the Supreme Court held in the northern and southern districts of Newfoundland, at such times and places and under such conditions as the Governor by proclamation shall from time to time appoint. Such circuits shall be presided over by the Chief Justice or one of the assistant Judges in rotation, unless they shall otherwise arrange.

2. In all cases where the debt, damages, thing demanded, or question in issue, shall involve an amount of two hundred dollars, or upwards, and if allowed by the presiding Judge in other cases, any party to an action or suit shall have a rule nisi upon all points raised by such party, returnable before the Supreme Court in St. John's, at its next sitting there; or may, in all such cases, have a special case, demurrer, probate or equity suit, or any information, action or suit, relating to the revenue, reheard: Provided that the Judge before whom the

case may be tried or heard, may require sufficient security from the appellant to abide the final judgment and costs.

3. The present Chief Clerk and Registrar of the northern Circuit Court shall perform the same duties on the northern circuit in the Supreme Court as he now does in the northern Circuit Court, and as are prescribed for the Chief Clerk and Registrar at St. John's, and he shall, after the passing of this chapter, be styled the Chief Clerk and Registrar of the Supreme Court on the Northern Circuit. And whereas the office of Chief Clerk of the southern Circuit Court has been abolished, the Governor in Council shall appoint a person, as occasion may require, to perform the duties of clerk of the Supreme Court on the southern circuit.

4. In criminal cases the Judge sitting in the Supreme Court on circuit may reserve questions for argument, or direct motions for new trials and in arrest of judgment, to be heard before the Supreme Court in St. John's, where the decision may be final and of the same effect as if the case had been originally instituted there, unless the case be referred back to the Court on circuit for new trial or otherwise.

5. The Judge of the Supreme Court on circuit may, upon such terms as may be deemed reasonable, direct that any action or suit pending before him be transferred for trial to St. John's or other place on either circuit where the Court may be held, and the record and other proceedings in such cases, or copies thereof, certified by the Judge or by the clerk, shall be transmitted to the place of trial.

6. Writs may be issued from any place within the jurisdiction of the Supreme Court, returnable before the Supreme Court in St. John's, or in the district where the defendant or his agent may reside; there shall be no necessity for a seal on such writs as may be issued in other places than St. John's. The forms and practice of the Supreme Court in St. John's shall apply to writs returnable there; and the circuit practice and forms to those returnable on circuit.

7. The central, northern and southern Circuit Courts shall cease to exist after this chapter shall come into operation; and all records of the said Courts shall be records of the Supreme Court on circuit, and all proceedings not finally settled shall be proceeded with to final judgment and execution, as if the same had been initiated in the said Court.

CHAPTER 12.

OF THE COURT OF LABRADOR.

SECTION

- 1—Institution of Court at Labrador. Powers of such Court.
- 2—Proceedings to be summary.
- 3—Salaries of Judge and other officers.
- 4—Appeal allowed in certain cases.
- 5—Proceedings in case of appeal.

SECTION

- 6—The Judge to be ex-officio Justice of the Peace and Coroner.
- 7—Offenders and arrested debtors to be confined as directed by the Judge.
- 8—Law of attachment made applicable. Schedule.

1. The Court of civil and criminal jurisdiction at Labrador shall be a Court of record called the Court of Labrador, and shall be presided over by one Judge, appointed or to be appointed by the Governor in Council; and shall, over all such parts of Labrador as lie within the Government of Newfoundland, have jurisdiction, power and authority, to hear and finally determine all criminal prosecutions for assaults and batteries, and for larcenies without force to the person, committed within the limits aforesaid, and all actions and suits of a civil nature, wherein the debt, damage or thing demanded, shall not exceed in amount or value five hundred dollars.

2. The proceedings of the said Court shall be summary; a record of such proceedings shall be kept and signed by the Judge thereof; and the forms of process and other proceedings in civil cases shall be as set out in the schedule to this chapter annexed, and in criminal matters shall be those used in summary proceedings of a like character by Justices of the Peace in this island.

3. The salary of the Judge of such Court shall not exceed eleven hundred and fifty-four dollars; and there shall be such officers of the said Court as the Governor in Council shall appoint; and the salaries of such officers shall be fixed by the Legislature.

4. Any person against whom any judgment or order of the said Court may be given in any matter over two hundred dollars, or where the matter in dispute shall relate to the title of any lands or fishery, or where the right in future may be bound, may within two days after such judgment or order appeal therefrom to the Supreme Court, giving one day's notice to the opposite party of such intended appeal; and upon such appellant, within seven days, giving security to the satisfaction of the Judge, for the speedy prosecution of such appeal, for the

performance of the judgment or order of the Supreme Court, or for the performance of the judgment of the Court of Labrador, should the same be affirmed or the appeal dismissed, and in such last mentioned cases also for the payment of the costs of such appeal, execution shall be stayed upon the judgment of the Court below: Provided that such Judge may, upon reasonable grounds, extend the time for such appeal, and when he shall think it necessary, reserve any question of law arising in any case before him for the consideration of the Supreme Court, suspending his judgment in the meanwhile until such question shall have been determined.

5. When an appeal shall be allowed in manner aforesaid, a copy of all proceedings in the Court below, authenticated under the hand and seal of the Judge thereof and of any other officer, if any such, who may be appointed for that purpose, shall be transmitted by such Judge to the Registrar of the Supreme Court, at St. John's; and after adjudication the Supreme Court shall carry such adjudication into effect by its own process, or direct that the same be carried into effect by the Court below.

6. The Judge of the said Court shall be, *ex officio*, a Justice of the Peace and Coroner for the island of Newfoundland and its dependencies, with the like power and authority as any Stipendiary Magistrate, Justice of the Peace or Coroner, lawfully appointed in Newfoundland.

7. Criminal offenders sentenced by the said Court to imprisonment, and debtors arrested under final process, may be confined in any place of security within the limits aforesaid the said Judge may direct, or may be conveyed to any gaol in Newfoundland, there to remain until removed or discharged in due course of law.

8. The provisions of the law of attachment in this colony, as defined by the practice and mode of procedure in the Supreme Court, shall apply to and be used in the said Court of Labrador, so far as may be applicable: Provided that an attachment may issue for any amount exceeding ten dollars.

SCHEDULE.

SUMMONS.

To Bailiff.
 Summon C. D. to appear before me on at
 to answer A. B., who complains that the said C. D. owes him
 as by particulars hereto annexed, and to be further
 dealt with according to law.
 Given under my hand at this
 day of A. D.
 G. H.,
Judge of the Court of Labrador.

ATTACHMENT.

To Bailiff.
 Attach C. D., by his lands, chattels, goods, debts and effects, to appear
 before me on at to answer A. B.,
 who complains that the said C. D. owes to him , as by
 particulars hereunto annexed, and to be further dealt with according
 to law.
 Given under my hand at this
 day of A. D.
 G. H.,
Judge of the Court of Labrador.
 Oath for \$

EXECUTION AGAINST GOODS.

To Bailiff.
 Levy on the property of C. D. the sum of
 which, by judgment of this Court, was declared to be due and to be
 paid by him to A. B., for debt (or damages for an assault, &c., as the
 case may be), and pay the said sum to the said A. B. in discharge of
 such judgment.
 Given under my hand at this
 day of A. D.
 G. H.,
Judge of the Court of Labrador.

EXECUTION AGAINST THE PERSON.

To Bailiff.
 Arrest C. D., and detain him in custody until he shall pay A. B. the sum of _____, amount of a judgment obtained against him by the said A. B. for debt, (or damage for an assault, as the case may be,) or until he be delivered by due course of law.
 Given under my hand at _____ this
 day of _____ A. D.
 G. H.,
Judge of the Court of Labrador.

WARRANT OF ATTACHMENT.

To (*Name of Garnishee.*)
 You are commanded to pay or deliver into this Court all moneys, property and effects of C. D., to the value of _____, now in your possession or under your control, to answer a claim of A. B. for debt (or damages for an assault, as the case may be.)
 Given under my hand, at _____ this
 day of _____ A. D.
 G. H.,
Judge of the Court of Labrador.

SUMMONS IN CASES OF TRESPASS, TROVER, EJECTMENT, OR CASE.

To Bailiff.
 Summon C. D. to appear before me on _____ at
 to answer A. B., who complains that the said C. D., on _____, assaulted the said A. B., (or took and detained from him his property, or wrongfully holds possession of certain lands, situate _____ the property of the said A. B., or on removed the nets of the said A. B., as the case may be,) and to be further dealt with according to law.
 Given under my hand at _____ this
 day of _____ A. D.
 G. H.,
Judge of the Court of Labrador.

FORM OF WRIT OF POSSESSION.

To Bailiff.
 Put A. B. in possession of that parcel of land (describing it) which

by a judgment of this Court made on the said A. B.
recovered from C. D., who now wrongfully holds possession of the
same.

Given under my hand at this
day of A. D.

G. H.
Judge of the Court of Labrador.

FEES TO BE TAKEN BY THE BAILIFF OF THE COURT.

Serving every summons, fifty cents, and ten cents per mile going and returning.

Serving every copy of attachment, fifty cents, and ten cents per mile going and returning.

Serving every warrant of attachment, fifty cents, and ten cents per mile going and returning.

Every arrest, two dollars and fifty cents, and mileage at the rate aforesaid.

Poundage on writs of execution and on actual seizures under attachment, two-and-a-half per cent.

CHAPTER 13.

OF THE COURTS OF SESSION, STIPENDIARY MAGISTRATES, AND JUSTICES OF THE PEACE.

SECTION

- 1—Places of holding and jurisdiction.
- 2—Times of sittings.
- 3—Power to determine civil cases summarily.
Jurisdiction \$25 with certain exceptions.
- 4—One Stipendiary Magistrate may hold civil sessions.
- 5—Magistrate out of session like jurisdiction.
- 6—Such Magistrate to have similar jurisdiction in summary complaints.
- 7—Authority to attach moneys, goods, &c., after judgment.
- 8—Jurisdiction of Justices in criminal matters.

SECTION

- 9—Investigation of cause of fires.
- 10—Justice of Peace may act where no Stipendiary Magistrate.
- 11—Where no Clerk of Peace, Magistrate may act as such.
- 12—Conviction, &c., not to be quashed for want of form only.
- 13—Table of fees.
- 14—Table of fees to be posted up.
- 15—Penalty for taking fees other than those allowed.
- 16—Fees to be accounted for quarterly.

1. Courts of General and Quarter Sessions shall be holden in this Island and its dependencies at such places with jurisdiction over such extent of district as hath been heretofore appointed, or as may be hereafter appointed, by the proclamation of the Governor.

2. The Courts of General and Quarter Sessions shall be holden on the first Monday of January, April, July and October, and shall sit by adjournment from time to time until the business pending therein respectively shall be disposed of, and there shall be no necessity for any proclamation thereof.

3. The said Courts may hear and determine in a summary way all civil actions for the recovery of debt or damages to the amount of twenty-five dollars, save actions in which the title to any land or tenement may be in question; and except actions for libel or slander, replevin, malicious prosecutions, and actions against any Justice of the Peace or other public officer for acts done in the execution of his duty; and may hear and determine all disputes to any amount concerning the wages of servants in the fishery, the supply of bait, and the hiring of boats for the fishery.

4. The Court of Sessions for the transaction of civil business may be held by one Stipendiary Magistrate.

5. Stipendiary Magistrates out of session may exercise the like jurisdiction in civil cases as the Courts of General and Quarter Sessions, with the like powers and authorities.

6. Any such Stipendiary Magistrate shall also have and exercise the like power, authority and jurisdiction, in the hearing and determining of summary proceedings on complaints, and the carrying out of any conviction thereon, as any two or more of her Majesty's Justices of the Peace now or hereafter may exercise under any law that may be in force in this Colony; and shall have the same power and authority to require and compel the attendance of witnesses.

7. Any of the said Courts of Sessions, or Stipendiary Magistrates, before whom judgment shall be recovered, may attach moneys, goods, debts and effects, in the hands of any third party, and summon and compel by warrant, if necessary, the attendance of any party for examination, and make and enforce the observance of such order thereon as to the said Courts or Magistrates shall appear just: Provided that no such attachment shall affect executory contracts or debts not actually due.

8. Justices of the Peace shall have and exercise, in proceedings of a criminal or other nature, the like powers, authorities and jurisdiction, where the same shall not be inapplicable, as Justices of the Peace in England may now or hereafter by law exercise there, except as may be otherwise provided by local enactment.

9. Whenever any building or property shall be injured or destroyed

by fire, the Stipendiary Magistrate or Justice for the district in which such fire shall occur, or such Justice as the Governor in Council may appoint therefor, shall make an investigation to ascertain the cause or origin of the fire; and such Magistrate or Justice may enforce the attendance of such persons, to give evidence before him, as he may require, by summons or warrant, and examine them under oath; and the proceedings and all depositions connected therewith shall be returned to the Attorney General for such further proceedings as may be prescribed by law.

10. In all places where there shall be no resident Stipendiary Magistrate or when he shall be absent, any Justice of the Peace in or near the locality shall and may perform and exercise all the functions, powers and authorities, which are or might be exercised or performed by a Stipendiary Magistrate under the provisions of these consolidated statutes.

11. A Stipendiary Magistrate or Justice of the Peace in any district or place where there shall be no Clerk of the Peace, or in his absence, may perform the duties of such officer.

12. No conviction or other proceedings by any Stipendiary Magistrate or Justice of the Peace shall be quashed or set aside for want of form only.

13. The following fees and costs shall be chargeable and taken in the several Police Offices, and in the several Courts of Session in this colony :—

FEES PAYABLE TO THE CLERK OF THE PEACE IN CIVIL OR SUMMARY
CRIMINAL CASES.

Summons or subpoena.....	Cents 25
Hearing of every cause	" 25
Entering proceedings to judgment.....	" 25
Warrant in execution	" 25
Recognizance.....	" 25
Every oath	" 25

FEES TO CLERKS OF THE PEACE IN CASES OF FELONY OR MISDEMEANOR, BEFORE A JUSTICE OF THE PEACE.

Deposition or examination	" 50
Summons	" 25
Subpoena	" 25
Warrant.....	" 30
Commitment.....	" 30
Recognizance of prosecuting witness or other person	" 30

FEES PAYABLE TO CONSTABLE OR BAILIFF.

For service of summons or subpoena.....	Cents	25
Executing every warrant to arrest the person.....	"	50
If the service or execution of the process or writ shall require the officer to travel beyond the distance of two miles, he shall be allowed for every mile travelled by him, for such purpose beyond that distance, the sum of	"	10
For execution of any warrant, order, or final process, of or from a Justice	"	25
When the levy under warrant, order or final process shall exceed five dollars, then there shall be allowed to such officer on such levy, in addition to the above fee of twenty-five cents, five per cent		

WITNESSES' FEES.

For each day's attendance of a witness	"	75
All travelling to be computed from the residence of the witness to the place of trial and then back again, per mile	"	10

FEES OF GAOLER OR KEEPER OF LOCK-UP HOUSE.

For every person committed to gaol.....	"	50
For every person discharged therefrom except insolvents....	"	50

BASTARDY CASES.

FEES TO BE RECEIVED BY THE CLERK.

For the examination of the party complaining.....	"	25
Warrant to apprehend mother, or reputed parent.....	"	50
Bond to appear, to maintain or perform order of filiation....	\$	1.25
Order of filiation.....	Cents	50
Every commitment.....	"	40
Oath.....	"	25

14. A printed table of the foregoing fees and costs shall be posted up in a conspicuous place in every Police Office and Court of Sessions in this Colony for public inspection.

15. Any person taking greater fees or costs in any Police Office or Court of Sessions than the fees or costs hereinbefore mentioned, shall for each offence forfeit and pay to her Majesty the sum of fifty dollars.

16. From and after the passing of this chapter all fees paid into the offices of the several Clerks of the Peace shall be accounted for quarterly by them, and be certified by the Court of Sessions, or a presiding Justice thereof; and the total amount of such fees shall be paid into the hands of the Receiver General for the use of the Colony, and a detailed annual statement of such fees shall be laid before the Legislature.

CHAPTER 14.

OF THE JURISDICTION OF THE COURT OF QUARTER SESSIONS, AND OF THE
MAGISTRATES FOR THE CENTRAL DISTRICT AND OTHER PURPOSES.

SECTION

- 1—Power of General Quarter Sessions to try in a summary manner, without a jury, cases of larceny, &c., on certain conditions.
- 2—The Court of Quarter Sessions may be held by a Police Magistrate alone, or with one or more Justices of the Peace.
- 3—Persons violating the Sunday by playing games, &c., may be arrested by police.
- 4—No conviction to be quashed for want of form, &c.

SECTION

- 5—Where Magistrate has power of imprisonment with or without hard labor, the alternative punishment of a fine may be imposed.
- 6—Power of Quarter Sessions to make rules, &c., to regulate the traffic on the streets of St. John's.
- 7—Mode of recovering fines.

1. The Court of General Quarter Sessions of the Peace for the central district shall have full power, jurisdiction and authority to try and determine in a summary manner, without a jury, all cases of larceny and of receiving stolen goods, where the value of the property stolen or received does not exceed twenty dollars, and in such cases to any amount where the party charged consents.

2. The said Court of Quarter Sessions may be held by a Police Magistrate, sitting alone, or with one or more Justices of the Peace, and may be holden whenever business may require, without formal adjournment or proclamation, except on the opening and closing of the Court at the commencement of each quarter.

3. All persons violating the Sunday by playing any game to the annoyance of their neighbors or of the public, and all persons found conducting themselves in a disorderly manner, may be arrested by the police and taken before the said Magistrates, either or any of them, and by him or them tried in a summary manner, and if convicted may be imprisoned for a period not exceeding ten days for the first offence, or twenty days for any subsequent offence.

4. No conviction before the said Magistrates, or either of them, shall be quashed for want of form, and no warrant of commitment or other process or proceeding shall be held void by reason of any defect therein, so as it be therein alleged that the party has been convicted of or charged with some offence named therein.

5. In any case under this chapter or otherwise, where the said Magistrates or either of them has or shall have the power of imprisonment,

with or without hard labor, he or they may impose the alternative punishment of a fine in no case exceeding twelve dollars, which may be paid by the offender before or at any time subsequent to his imprisonment; provided that this section shall not be construed to apply to the first section of this chapter.

6. The Court of Quarter Sessions shall have power to make rules for regulating the traffic on the streets of St. John's; also for regulating the standing of cabs, waggons, horses and carts in the said streets, and to impose a fine not exceeding five dollars for each breach of said rules; such rules to be subject to the approval of the Governor in Council, and to be published in the *Royal Gazette* one month before being put in force.

7. All fines mentioned in this chapter may be recovered in a summary manner before one or more Justices of the Peace as an ordinary debt, by any person who shall sue for the same, with the usual power of distress, and sale of the offender's goods.

CHAPTER 15.

OF THE CENTRAL DISTRICT COURT AND THE POLICE MAGISTRATES.

SECTION

- 1—Central District Court a Court of record.
- 2—Judges of said Court.
- 3—How Court may be held.
- 4—Jurisdiction of Court.
- 5—Judges ex officio Magistrates.
- 6—Causes of action not to be divided.
- 7—No costs to be recovered in action in Supreme Court for less than \$20, unless on certificate of Judge.

SECTION

- 8—Removal of causes.
- 9—Appeal.
- 10—Judge shall not practice profession or business.
- 11—Clerk of the Court.
- 12—Power to make rules.
- 13—One Judge sufficient.
- 14—Salaries of Judges.

1. The central District Court shall be a Court of record held in St. John's for the said district for the adjudication of civil causes; and shall sit, whenever business may require, without proclamation or formal adjournment, at the Court House in St. John's, or such other building as may be used for the purpose.

2. There shall be two Judges of the said Court, except as hereinafter provided; and in the event of vacancy the same shall be filled by the appointment of a suitable person by the Governor in Council.

3. The Judges of the said Court may jointly or severally hold such Court, and when business may require may sit separately.

4. The jurisdiction of said Court shall be exercised summarily, and in like manner as the jurisdiction of the Court of Sessions of the peace now is. Provided that it shall, in addition to the present jurisdiction of Sessions Court, have jurisdiction, with all the powers and authorities incident thereto, in all civil causes whatsoever, to the amount of forty dollars, except where the title to land may be involved, and except actions for libel or slander, replevin, malicious prosecutions, and actions against any Justice of the Peace or other public officer for acts done in the execution of his duty, if such Justice or officer object thereto.

5. The Judges of the said District Court shall be, *ex officio*, Police Magistrates for the central district, and Justices of the Peace for this colony and its dependencies, and shall severally be entitled to exercise the like powers, jurisdiction and authorities as any Stipendiary Magistrates or any number of Justices of the Peace.

6. A plaintiff shall not divide any cause of action for the purpose of bringing two or more suits in the said Court; but he may abandon the excess and recover to any amount not exceeding forty dollars.

7. If any action be commenced by writ of summons in the Supreme Court, for any cause over which the said central District Court has jurisdiction, and a verdict shall be found or a judgment given for any sum less than twenty dollars, the said plaintiff shall have judgment to recover such sum only, and no costs, unless the Court or a Judge thereof shall certify on the back of the record that the action was fit to be brought in the Supreme Court.

8. No plaint lawfully entered in the said District Court shall be removed or removable from the said Court into the Supreme Court, by any writ or process, unless the cause of action shall exceed twenty dollars, or such amount shall be involved therein; and then only by leave of a Judge of the Supreme Court in cases which shall appear to him fit to be tried in that Court, and upon such terms, as to payment of costs or otherwise, as such Judge shall order; and such removal may be had upon rules or orders *nisi* and absolute, or absolute in the first instance, without any writ of *certiorari*.

9. If any person shall feel himself aggrieved by any order or judgment of the said District Court to any amount exceeding twenty dollars, or involving such amount, he shall have liberty to appeal to the then next sitting of her Majesty's Supreme Court, provided the same be entered within two days after such order or judgment shall have been made or given; and, if required by a Judge of the District Court,

recognizance or other security, with or without surety, shall be entered into to pay the said claim and all costs.

10. No District Court Judge as aforesaid shall practice in any profession or business of profit, or hold any permanent office of profit or emolument under the crown.

11. The Clerk of the Peace shall be clerk of the said District Court for all purposes under the provisions of this chapter.

12. The said District Judges shall have power to make and issue all general rules for regulating the sittings and the practice and proceedings and costs of said District Court under the provisions of this chapter; and also to frame all forms that may be necessary to be provided for, and to alter any such rules and forms, provided that the same shall first obtain the approval of the Judges of the Supreme Court or of any two of them.

13. One Judge shall be sufficient to constitute the said District Court, and for all the purposes of this chapter, until a second be appointed.

14. The said District Judges shall receive as annual salaries one thousand six hundred dollars each.

CHAPTER 16.

OF THE HARBOR GRACE DISTRICT COURT.

SECTION

- 1—Court of Record styled District Court of Harbor Grace.
- 2—Judge to be *ex officio* Justice of the Peace, &c.
- 3—Court to have summary jurisdiction, same as Court of Sessions. In civil causes forty dollars. Exceptions. Proviso.
- 4—Cause of action not to be divided, &c.
- 5—Witness refusing to appear when summoned. What remedy available. Punishment.
- 6—Power of District Court to order *Fieri Facias*, &c.

SECTION

- 7—No costs allowed in Supreme Court when judgment is under forty dollars, unless Judge certifies.
- 8—No appeal in cases under twenty dollars, and then only by leave of a judge.
- 9—Appeal to the Supreme Court. Proviso.
- 10—Clerk of Peace to be Clerk of Court.
- 11—Power to make rules, &c.
- 12—Salary of District Judge, one thousand four hundred dollars.
- 13—Judge shall not practice profession, or business, or hold any except certain offices.

1. There shall be a Court of Record held in Harbor Grace, to be styled the District Court of Harbor Grace, with jurisdiction over the following divisions of the electoral district of Conception Bay, viz.: Harbor Grace, Carbonear, Port-de-Grave, and Bay-de-Verds, for the adjudication of civil causes; and which Court shall sit whenever business may require, without proclamation or formal adjournment, at the Court House in Harbor Grace, or such other building as may be used for the purpose.

2. There shall be one Judge of the said Court, who shall be *ex officio* Justice of the Peace for this Colony and its dependencies, and who, as such Justice of the Peace, shall have and exercise the like powers, jurisdiction and authority within the said electoral division of Harbor Grace as any Stipendiary Magistrate or any number of Justices of the Peace.

3. The said Court shall have power to hear and determine summarily all civil causes over which the Court of Sessions now has jurisdiction, together with all causes whatever to the amount of forty dollars, except where the title to lands may be involved, and except actions for libel or slander, replevin, malicious prosecutions and actions against any Justice of the Peace or commissioned officer of the Government, for acts done in the execution of his duty, if such Justice or officer object thereto: Provided that the jurisdiction beyond the electoral division of Harbor Grace shall be exercised only in cases in which

the Courts of Sessions of the other districts have not at present a jurisdiction.

4. A plaintiff shall not divide any cause of action for the purpose of bringing two or more suits in the said Harbor Grace District Court; but he may abandon the excess, and recover to any amount not exceeding forty dollars.

5. If any person, duly summoned to appear in the said Court to give evidence in a cause pending therein, refuse or neglect to appear, and no just cause shall be shown for such neglect or refusal, and proof being made of legal service of a summons, and that conduct-money was tendered to him for his expenses, and also proof that such person is a material and necessary witness in the hearing of the cause, the Judge of the said Court may issue a warrant to bring such person before the said Court, at a time to be therein mentioned, to testify as aforesaid; and should such witness refuse to be sworn and give evidence, the said Judge may commit him for contempt to the common gaol at Harbor Grace, to be therein confined at the discretion of the Judge, unless he shall in the meantime consent to be examined and give evidence.

6. The said District Court shall have power to order a *Fieri Facias*, or warrant of execution, to be issued after judgment given, and also to attach, under final process, moneys, goods, debts and effects in the hands of any third party, and to summon and compel by warrant the attendance of any party residing or being within the jurisdiction of the said Court for examination, and to make and enforce the observance of such order thereon as to the said Court shall appear just: Provided that no such attachment shall affect executory contracts or debts not actually due.

7. If any action be commenced by writ of summons in the Supreme Court, for any cause over which the said District Court has jurisdiction, and a judgment shall be found for any sum less than forty dollars, the plaintiff shall have judgment to recover such sum only, and no costs, unless the Judge who tried the case shall certify on the back of the record that the action was fit to be brought in the Supreme Court.

8. No plaint lawfully entered in the said District Court shall be removed or removable from the said Court into the Supreme Court, by any writ or process, unless the cause of action shall exceed twenty dollars, or such amount shall be involved therein, and then only by leave of a Judge of the Supreme Court in St. John's or on circuit, in cases which shall appear to him fit, and on such terms as to payment of

costs or otherwise as such Judge shall order; and such removal shall be had upon rules or orders *nisi* and absolute, or absolute in the first instance, without any writ of *certiorari*.

9. If any person shall feel aggrieved by any order or judgment of the said District Court to any amount exceeding twenty dollars, or involving such amount, he shall have liberty to appeal to the then next sitting of the Supreme Court on circuit at Harbor Grace or Brigus: Provided the same be entered within two days after such order or judgment shall have been made or given; and if required by the Judge of the District Court, recognizance or other security, with or without surety, shall be entered into to pay the said claim and all costs.

10. The Clerk of the Peace at Harbor Grace shall be clerk of the said District Court, and for all purposes under the provisions of this chapter.

11. The said District Judge may make and issue general rules for regulating the sittings and the practice and proceedings and costs of said District Court under the provisions of this chapter; and also frame all forms that may be necessary: Provided that the same shall first obtain the approval of the Judges of the Supreme Court, or two of them.

12. The District Judge to be appointed under this chapter, shall receive as annual salary fourteen hundred dollars.

13. The said District Judge shall not practice in any profession or business of profit, or hold any office of profit or emolument under the crown, or take any fees or perquisites for any official act, except the offices of Cashier of the Harbor Grace branch of the Newfoundland Savings' Bank, and of Coroner for the district of Harbor Grace.

CHAPTER 17.

OF SHERIFFS.

SECTION

- 1—Sheriff for each judicial district.
- 2—Duties and authority, &c., &c.
- 3—Sheriffs of northern and southern districts to appoint deputies.

SECTION

- 4—Sheriff of central district may appoint deputy.
- 5—Special deputations.

1. There shall be a Sheriff for each judicial district of this island, who shall be appointed by the Governor in Council, and who shall hold

office during pleasure, and who shall upon his appointment take such oaths and give such security as may be required for the performance of his duties.

2. The duties, power, authority and privileges of the said Sheriffs, as the same are now had, performed, exercised and enjoyed, are continued subject to any extension or alteration in these consolidated statutes contained.

3. The Sheriffs for the northern and southern judicial districts respectively shall from time to time appoint and duly authorize, under their respective hands and seals, in the principal places within each electoral district within their respective judicial districts, a deputy or deputies for the service and execution of all writs, rules, orders and other process of the Supreme Court, which deputy or deputies shall possess, exercise and discharge therein the same powers and duties as the Sheriff if personally present; and for the acts of such deputy or deputies, where the process passes through the hands of the Sheriff, and not otherwise, the Sheriff making such appointment shall be responsible; and it shall be sufficient in all cases to deliver or cause to be delivered any writ, rule or other process, as aforesaid, to the deputy Sheriff of the district wherein the same is required to be executed, without transmitting the same through the Sheriff; and the said respective Sheriffs are hereby required to furnish to each other, and to the Sheriff of the central district, for the information of all persons requiring the same, the names and additions of the deputies so to be appointed by them respectively; and from time to time, in like manner, to furnish the names and additions of any further or other deputies to be appointed within one month after the appointment of the same respectively; and the Sheriff of the central district, as well as the Sheriffs of the said northern and southern districts, shall keep hung up in their respective offices a list of such deputies.

4. The Sheriff of the central district may within the central district appoint a deputy or deputies for whose acts he shall be responsible.

5. The said Sheriffs shall grant special deputations when required for the purpose of executing process either within or beyond the limits of their districts, and in any other part of this Colony or its dependencies, when in the latter case such process may lawfully run beyond such limits; but the said Sheriffs shall not be responsible for the execution of such process by special deputation, but shall require the party applying for such special deputation to give security for the faithful execution of the process; and the party so applying and his sureties

shall be liable to third parties for injury arising in or about the execution of the process in the same way as the Sheriff would have been liable to such third parties: Provided that the Sheriff shall be responsible for having taken insufficient security.

CHAPTER 18.

OF CORONERS.

SECTION

- 1—Former appointments of Coroners valid.
- 2—Appointment of Coroners.
- 3—Coroners *ex officio* Justices of Peace.
- 4—Inquests and proceedings thereunder.

SECTION

- 5—Return of proceedings to Supreme Court.
- 6—Depositions receivable in evidence.
- 7—Coroner compelled to hold inquest.
- 8—Fees on inquests.

1. All appointments of Coroners heretofore made by the Governor of Newfoundland are hereby declared valid and legal; and all proceedings had or done under or by virtue of such appointments are hereby confirmed in so far as the same would have been valid if had or done in England by Coroners there duly elected.

2. The Governor in Council may by warrant appoint Coroners for the several districts and places in this colony, and define and alter boundaries within which they shall have jurisdiction, and all persons so appointed shall hold office during pleasure.

3. All such Coroners shall within the districts for which they shall be appointed, be *ex officio* Justices of the Peace; and shall upon their appointment take and subscribe before a Stipendiary Magistrate the oath of allegiance and the oath of office as follows:—

“I, A. B., of _____, do swear that I will in all respects faithfully, honestly and diligently, and to the best of my ability, discharge and perform the duties of Coroner of the district of _____.”

4. Such Coroners shall within their jurisdiction in all cases of persons slain, drowned, suddenly dead, *felo de se* or dead in prison, have and exercise such power and authority for holding inquests, for committing to prison, and bailing those charged with murder or manslaughter, and for the binding over of witnesses to give evidence, and with the like effect as regards the forfeiture of the goods and chattels of felons, and their arraignment, trial and punishment upon the inquisition as are had and exercised by Coroners under the law of England.

5. It shall be the duty of such Coroners, without delay, to return the records of all inquests and depositions held and taken by them to the Chief Clerk or to the Circuit Clerk of the Supreme Court, by whom the same shall, when necessary, be transmitted to the Attorney General or Solicitor General, or to the prosecuting officer for the circuit, for such further proceeding as may be prescribed by law.

6. All depositions taken and made before any such Coroner shall, being subscribed by him, be receivable in evidence in criminal cases, in like manner as depositions before Coroners are receivable by the laws of England.

7. If any Coroner shall refuse or neglect to hold an inquest in any case, when such inquest ought to be held, her Majesty's Attorney General or Solicitor General or prosecuting officer may apply to the Supreme Court, or to one of the Judges thereof, for a rule calling on such Coroner to shew cause why he should not hold such inquest; and if, after service of such rule, good cause shall not be shown against it, the said Court or Judge may make such rule absolute, with or without payment of costs, as to such Court or Judge shall seem meet; and the Coroner, upon being served with such rule absolute, shall obey the same, and hold an inquest, upon pain of being liable to an attachment for contempt in case of refusal or neglect.

8. The following fees shall be allowed and paid in cases of inquest, viz. :—

To the Coroner for holding inquest.....	\$5.00
“ for precept.....	1.50
To the constable.....	1.00
To the jury.....	3.00
Fee of one medical witness.....	5.00
Every necessary post mortem examination.....	5.00
Mileage to Coroner, constable and witness, for each mile travelled, going and returning.....	0.20

The Government shall defray any further reasonable and necessary charge that may be incurred in special cases.

CHAPTER 19.

OF TRIAL BY JURY.

SECTION

- 1—Qualification of grand jurors in the central district.
- 2—Qualification of petty jurors.
- 3—Qualification of grand jurors in northern and southern districts.
- 4—Qualification of petty jurors in northern and southern districts.
- 5—Magistrates to make lists of jurors and return same to Sheriff. Revision.
- 6—List to be open to the inspection of the public.
- 7—Lists of persons removed from panel to be kept by Sheriffs, &c.
- 8—Persons on revised list of jurors liable to serve for current year.
- 9—Names of grand jurors to be on separate cards. Sheriff to attend with cards and compare lists of grand jurors with Clerk of Court, and deposit names in box, &c.
- 10—Names of petty jurors on separate cards. Sheriffs to attend clerk with lists, &c. First forty-eight to be summoned, and so on afterwards, to serve for certain periods of the terms. Court may prolong attendance. Name of juror not to be drawn more than once a year except in case of deficiency.
- 11—Drawing and summoning petty jurors in other Courts and districts. Special provisions for Harbor Grace.

SECTION

- 12—Parties to action may take special jury. Mode of taking, striking and summoning.
- 13—Mode of choosing jurors for trial of cause.
- 14—In criminal cases the jury to be drawn from full panel.
- 15—Peremptory challenge to jurors.
- 16—Parties exempted from serving as jurors.
- 17—Council and members of Assembly exempt during session, and firemen in special cases.
- 18—Service of summons on jurors.
- 19—Penalties for non-attendance of jurors. Jurors to serve in the Court of Sessions.
- 20—Special attendance of jurors on commission or precept.
- 21—Jury to make view under charge of Sheriff.
- 22—Juror challenged may be examined.
- 23—Juries in criminal cases may be sworn simultaneously.
- 24—Person convicted of treason, &c., not competent to serve as juror.
- 25—Short attendance of jurors. Proviso.
- 26—Irregularities in revising and compiling list no cause of challenge.
- 27—Irregularities in drawing and summoning cause of exception on challenge only.

1. Every person not hereinafter exempted, or who may not otherwise by law be exempted, residing within three miles of the court house in St. John's, and being a merchant or the chief accredited agent of any mercantile establishment, or a gentleman, or being worth or possessed of property of any description, within the said limits, clear of all incumbrances, of the value of two thousand dollars of the current money of this island, or any person owning or occupying a house, land, or tenement within the said limits of the annual rent or value of two hundred and forty dollars of the current money of this island, shall respectively be qualified and liable to serve as a grand juror in any Court within the central district of this island.

2. Every person not hereinafter exempted, or who may not otherwise by law be exempted, residing within the limits mentioned in the foregoing section, and owning real property to any amount, or occupying or possessing a house, land or tenement within the limits aforesaid, of the annual rent or value of thirty dollars currency, shall be qualified and liable to serve on petty juries within the said district; and no person shall be qualified or liable to serve as a grand or petty juror who shall not have resided twelve months in this island.

3. Every person not hereinafter exempted, or that may not otherwise by law be exempted, residing within at least seven miles from any place where the Supreme Court on circuit or any other Court shall be holden in the northern or southern district of this island, and being a merchant or the chief accredited agent of any mercantile establishment, or a gentleman, or being the owner of property within the said limits, clear of all incumbrances, of the value of eight hundred dollars of the current money of this island, or owning or occupying a house, land or tenement, if at Harbor Grace, of the annual rent or value of one hundred dollars currency, or if in any other place of the annual rent or value of fifty dollars currency, shall be qualified and liable to serve as a grand juror within the said limits of the said several districts.

4. Every person not hereinafter exempted, or who may not otherwise by law be exempted, residing within the limits mentioned in the third section, and owning real property to any amount within the said limits, or occupying or possessing a house, land or tenement within the said limits, of the annual rent or value of sixteen dollars currency, shall be qualified and liable to serve on petty juries within the said limits in the said several districts.

5. Where lists have not already been made, the Stipendiary Magistrate, or any other Magistrate appointed by the Governor for the purpose, where there is no Stipendiary Magistrate resident in any of the places where any Court may be held, shall superintend and direct the making out of separate lists of all persons qualified to serve on grand and petty juries respectively, in such districts or places, and shall arrange the same in the respective panels in alphabetical order, with the addition and place of abode of each person stated, and after revision shall deliver the same to the Sheriff of the district in which the same shall be taken; and the said Magistrates, on the last Tuesday in January, and from that day from time to time for at least two weeks in every year, shall revise the lists of grand and petty jurors, and

furnish returns of all persons who shall be exempt or cease to be qualified, and of all others who shall have become qualified, to be placed on the respective lists; and for every such return there shall be paid from the public treasury to the Stipendiary Magistrate, for every one hundred names so returned the sum of eight dollars,—one-half thereof to be paid the officers employed by them.

6. The said lists shall be open to the inspection of the public in the respective offices of the said Sheriffs and Magistrates engaged in revision, and in case the name of any person qualified to serve as a grand or petty juror shall not appear on any of the said lists, or the name of any person exempt or not qualified shall appear thereon, the Magistrate having charge of such lists shall correct any such error or supply any such omission by inserting or omitting the name, as the case may require.

7. When members of the panel are for any cause permanently removed from it, lists of those thus exempted from further service shall be kept by the Sheriffs, and returns made to the revising Magistrates, according as the exemptions occur in the Supreme Court; and in the Courts of Sessions such lists of exemptions shall be kept by the Magistrates.

8. All persons other than persons not qualified to be jurors, and other than enginemen and firemen, as hereinafter exempted, whose names shall appear on the revised lists of jurors exhibited for public inspection after any annual revision, and who have not applied to the revising Magistrate to have their names erased, shall be liable to serve for the then current year. This section shall not prevent the transfer, by the Court, of any person duly qualified from the petty to the grand jury panel, nor prevent challenge for cause.)

9. All the names of persons qualified to serve as grand jurors, together with their additions and the names of their respective places of abode, shall be written or printed on separate cards, and at least fourteen days before the commencement of each term to be holden at St. John's, and at least six days before the first day of each term to be holden at Harbor Grace, and at least the day before such grand jurors shall be required to attend Court in any other place in this island, the respective Sheriffs shall attend with the said cards before the respective Clerks of the said Courts, or their respective deputies, who shall compare the same with the lists of the grand jurors furnished as aforesaid; and the said cards containing the names of the whole of the said jurors shall be put into a box in presence of the said re-

spective Clerks, and the first twenty-three persons whose names shall be first drawn by the Sheriff shall be summoned at least four days before the commencement of each term of the said Courts to be holden at St. John's and Harbor Grace, and at least the day before they shall be required to attend any Court to be holden in any other place in this island, and serve as grand jurors for and during such term.

10. All the names of persons qualified to serve as petty jurors, together with their additions and respective places of abode, shall be written or printed on separate cards ; and at least fourteen days before the commencement of each term to be holden in St. John's, and at least the day before they shall be required to attend Court elsewhere, the Sheriff of each district or his deputy shall attend with the said cards before the Clerk of each of the said respective Courts or his deputy, who shall compare the same with the lists furnished as aforesaid ; and the said cards containing the names of the whole of the said jurors shall be put into a box in the presence of the said Clerk, and the first forty-eight persons whose names shall be first drawn by the Sheriff shall be summoned at least four days before the commencement of each term of the said Court, to be holden at St. John's, and at least the day before they shall be required to attend Court in any other place, to be and serve as petty jurors for and during the first ten days of the said term, if in the Supreme Court in St. John's ; or if in any other Court or place, then for and during the term, except as hereinafter provided for Harbor Grace ; and the next forty-eight persons whose names shall be next drawn therefrom shall be summoned at least four days before the tenth day of the said term if in St. John's ; and the said persons so summoned shall in like manner attend and serve as petty jurors for the next ten days of the said term ; and *toties quoties* for the remainder of the said term : Provided that the said respective Courts shall have power and authority to prolong the attendance of any of the said jurors, if necessary, beyond the time hereinbefore limited for their attendance ; and that no grand or petty juror shall be drawn oftener than one term in any year, unless in case of deficiency in the number of jurors, when the names of such as have been summoned on previous juries shall be returned to the box to be drawn in like manner : Provided that no person drawn as a grand or petty juror shall be again drawn as such until all the undrawn names upon the list containing the name of such juror shall be exhausted.

11. The same course shall be pursued as nearly as may be in drawing and summoning petty jurors for any other Courts, or in any other

of the said districts; but it shall not be necessary to summon more than twenty-four petty jurors to attend any other Courts at any one time in any one district during any one term or sittings of such Courts therein, except at Harbor Grace, where there shall be two panels, of twenty-four jurors each, summoned to attend—one for the first ten days, and the other for the remainder of each term, according to the order and manner prescribed in the tenth section, and subject to the conditions therein contained, and except when any criminal causes are to be tried, when thirty-five jurors shall be summoned on each panel.

12. The plaintiff or defendant in any civil cause, information or indictment for misdemeanor, pending in any of the said Courts, may take a rule for a special jury, as of course, twenty-four hours from the time of docketing the cause for trial, upon filing a motion paper; or any of the said Courts may grant a rule for a special jury if they should see fit, after the expiration of such time. A copy of such rule shall be served at the address of the opposite party or of his attorney on the day of issuing the same, with an appointment from the Sheriff, or his deputy, to draw the jury on the following lawful day, at an hour to be therein named, when the Sheriff or his deputy shall, in the presence of the parties or their attorneys, or such of them as attend, draw forty names from the box containing the names of the grand jurors, (setting aside such as are then summoned to attend as grand jurors, except in cases where a deficiency would thereby arise,) and make a list of them as they are drawn. The plaintiff and defendant, or, in the absence of either, the Sheriff or his deputy for the absent party, shall then alternately strike off a name until each has stricken off ten, and the remaining twenty shall form the special panel, to be summoned by the Sheriff at least the day before their attendance shall be required for the trial of the cause.

13. The names of persons returned to serve on special or petty juries, together with their additions and the names of their respective places of abode, being written or printed on separate cards, whenever a jury shall be required to try a cause, whether the cause be a petty or special jury cause, except criminal cases hereinafter provided for, the cards containing the names of the special or petty jurors summoned, as the case may be, shall be put into a box in open Court, and the first twelve persons whose names shall be first drawn, and then present in Court, shall be the jury to try the said cause, except where any of the said jurors shall have been set aside for challenge; and in any case in which a sufficient number of jurors shall not appear or remain unchal-

lenged, or otherwise, to try the cause, whether the same be civil or criminal, then, and in such case, a *tales de circumstantibus* shall be awarded and immediately returned by the Sheriff from the qualified petty jurors or the by-standers there present; and in any petty jury cause, after the first in each term, the Clerk having returned into the box the names of those petty jurors who have been challenged, or who have not appeared, shall proceed to draw the jury therefrom until all the names have been drawn, when the names of such as have served on previous juries shall be returned to the box to be drawn in like manner.

14. In criminal cases the juries for the trial of the same shall be drawn by the Clerk from the whole panel in attendance on the Court, instead of from those only who have not served on previous juries. The names of all jurors then in attendance being placed in the box for that purpose.

15. On every trial of any issue, information or indictment for a misdemeanor, either party may in any petty or special jury case, peremptorily challenge three jurors or talesmen as they come to the book, and such challenge shall be admitted by the Court, but shall not affect any other right of challenge the party challenging now has or may have, or, if such party consist of several persons, give a right to challenge more than three jurors in any cause.

16. The following persons, although they may not have applied to have their names erased from the list, shall be exempt from serving on grand, special and petty juries in the said several Courts, that is to say: the Colonial Secretary, Receiver General, Surveyor General, Chairman of the Board of Works, and Financial Secretary of this island; the members of the Executive Council, Stipendiary Magistrates, the officers of the several Courts of Justice, household servants of the Governor, Sheriffs' officers, the Postmaster General and officers and servants of the Post Office, officers of the army and navy in actual service, the clerks in the several departments of the army, the officers and clerks belonging to the civil departments of her Majesty's Government, clergymen, barristers, attorneys, physicians, surgeons, apothecaries; managers, clerks and cashiers of banks; schoolmasters, pilots licensed under any act of the Legislature, masters and engineers of tug boats belonging to St. John's, organised enginemen and firemen in St. John's, and persons under twenty-one and over sixty years of age, and electric telegraph operators; and no grand juror shall be liable to serve on a petty jury except as a talesman.

17. Members and officers and servants of the Legislature shall be exempt from serving on juries during the sittings of the Legislature; and enginemen and firemen shall be exempt from such service only upon their making oath of their due and actual admission and enrolment as members of such companies twelve months preceding the application for exemption, together with a certificate from the superintendent or chief officer of their respective companies of their conformity during that period to the rules thereof.

18. In every case the summons for every grand, special or petty juror shall be served upon him personally, or left at his usual place of business or abode for him.

19. Every person duly summoned to attend upon a grand or special jury in the said respective Courts, and who, not being prevented by sickness or other reasonable cause, shall fail to appear and serve upon the same, shall forfeit and pay for every day's default a sum not exceeding twenty dollars nor less than four dollars, unto her Majesty; and every person so summoned to attend upon a petty jury, and who without like reasonable cause of absence shall fail to appear and serve upon such petty jury, shall in like manner forfeit and pay to her Majesty a sum not exceeding four dollars, nor less than one dollar, for every day's default; which respective penalties having been recovered, if necessary, by distress and sale of the offender's goods and chattels, shall be paid to the Clerk of the Court, and by him handed over to the Receiver General of the Colony, at the end of the term wherein the same shall have been enforced, for the use of the Colony. All persons liable to serve on the said respective juries in the said Courts, except Justices of the Peace, shall be also liable to attend and serve as such jurors as aforesaid in the several Courts of Sessions in this island, when duly drawn and summoned in the manner hereinbefore prescribed, as far as the same can be made applicable, and subject to the like penalties for non-attendance: Provided that no jurors residing further than two miles from Harbor Grace, or an equal distance from Carbonear, shall be summoned to attend at the Court of Sessions held in either of the said respective places.

20. All persons liable to serve on the said respective juries shall be liable to serve as such jurors as aforesaid, under special commission, at every other period than the usual term of the Courts that may be stated in such commission, or at such time as any of the Judges of the Supreme Court or Justices of the Quarter Sessions may direct in any precept to be issued by any of them.

21. When a view shall be considered necessary by the Court, the jury sworn to try the cause shall make the view under charge of the Sheriff, and, if necessary, of shewers to be appointed by the Court; the trial may be postponed to any other day during the sitting of the same Court, and in the meantime other causes may be disposed of. The writ of view is hereby abolished.

22. A juror challenged for want of qualification may be examined as to the ground of challenge by the Court, or by either party in the cause.

23. Jurors in criminal cases may be sworn simultaneously, as in civil suits, as soon as a full jury shall appear, after disposal of challenges and exceptions.

24. No person convicted of treason or felony, perjury or subornation of perjury, shall be competent to serve on any jury unless he shall have received a free pardon.

25. The Supreme Court may, upon any occasion when there shall be a short attendance of petty jurors in the said Court, or when a pressure of business or the exercise or the probability of the exercise of the right of challenge shall seem to the said Court to require such a course, issue one or more precepts for the attendance of additional jurors, who shall be summoned and shall attend forthwith, and who shall be subject to the provisions of this chapter, and shall serve for such time as may be required by the Court.

26. Irregularities in compiling, revising or returning jury lists, shall be no cause of challenge or other exception.

27. Irregularities in drawing, summoning and returning any jury panel shall be subject of exception on challenge only, and not otherwise: Provided that nothing in this chapter contained shall prevent personal challenge of any person called as a juror, upon the ground that he is not a British subject of full age.

TITLE IV.

Pleading and Practice.

CHAPTER 20.

PRACTICE AND MODE OF PROCEDURE ON THE COMMON LAW SIDE OF THE SUPREME COURT IN ST. JOHN'S.

SECTION

- 1—Personal actions to be commenced by summons, attachment or *capias*.
- 2—Writs to contain certain endorsements.
- 3—Concurrent writs may be issued.
- 4—No original writ in force beyond six months, &c.
- 5—Declaration to be annexed to writ.
- 6—Service of writs.
- 7—Service on defendant residing out of colony. Judge may direct plaintiff to proceed in an action where defendant evades service of writ. Plaintiff to prove amount of debt or damages claimed by him.
- 8—Omission of endorsements shall not render writ void, &c.
- 9—A writ for service within jurisdiction may be marked concurrent with one for service without the jurisdiction.
- 10—Affidavits for proceeding against absent defendants.
- 11—Arrest. No *capias* shall issue unless on affidavit.
- 12—Exemptions from arrest on original process.
- 13—No second arrest for same cause.
- 14—Discharge of party arrested.
- 15—One or more defendants in a *ca res* may be arrested.
- 16—Bail above not necessary. Bond to be given to Sheriff.
- 17—Bond to be assigned to plaintiff in case of breach.
- 18—Attachment, issuing of.
- 19—Release of property attached.
- 20—Bail bond to abide final judgment.
- 21—Perishable goods may be sold, &c.
- 22—Proceedings when moneys or goods in hands of third persons attached.

SECTION

- 23—Debts payable in goods. Plaintiff to specify goods in certain cases.
- 24—Proceedings where lands, &c., attached.
- 25—Moneys may be levied under writ of execution.
- 26—Property attached to abide final judgment.
- 27—Sheriff may attach for costs, &c.
- 28—In actions commenced by *capias*, plaintiff bound to proceed to trial first term.
- 29—In cases of non-appearance where defendant resides out of colony, plaintiff may sign judgment.
- 30—Proceedings in case of non-appearance, where the writ has not been endorsed in special form.
- 31—Defendant may appear at any time before judgment. Defendant appearing in person to give address.
- 32—Proceedings in case of default.
- 33—Proceedings against several defendants if one or more only shall appear.
- 34—Judgment on warrant of attorney and cognovit.
- 35—Where the defendant himself signs.
- 36—Joinder of parties.
- 37—Non-joinder and mis-joinder of plaintiffs may be amended.
- 38—Upon notice of plea of non-joinder of plaintiffs proceedings may be amended.
- 39—Mis-joinder of defendants may be amended before trial.
- 40—Upon plea in abatement for non-joinder of defendants, proceedings may be amended.
- 41—Provision in the case of subsequent proceedings against the persons named in a plea in abatement for non-joinder of defendants.

SECTION

- 42—Joinder of claims by husband and wife with claims in right of husband, and *vice versa*.
- 43—Different causes of action may be joined.
- 44—Questions of fact may be raised without pleadings.
- 45—Payment of money into Court.
- 46—Such payment to be pleaded.
- 47—No rule or Judge's order necessary.
- 48—Plaintiff may reply by accepting, &c.
- 49—Notice of trial.
- 50—Notice to proceed may be given by the defendant in certain cases.
- 51—Judgment may be signed after four days after verdict, unless otherwise ordered.
- 52—Writs of execution. Duration, &c., of.
- 53—Execution may be levied on money, &c., and warrants laid.
- 54—Person acquiring title before seizure under execution protected.
- 55—Execution in six years without revival.
- 56—Revivor. Judgment may be revived by writ, or by suggestion.
- 57—Proceedings upon application for such suggestion.
- 58—Writ to revive and proceedings thereon.
- 59—Writ of *scire facias*.
- 60—Appearance to writs of revivor.
- 61—Writ of revivor upon judgment more than ten years old.
- 62—Death of plaintiff or defendant not to cause suit to abate.
- 63—Proceedings in case of death of one or more of several plaintiffs or defendants.
- 64—Proceedings in case of death of sole plaintiff.
- 65—Proceedings on death of sole surviving defendant.
- 66—Death between verdict and judgment.
- 67—Proceedings in case of death after interlocutory and before final judgment.
- 68—Marriage not to abate action.
- 69—Insolvency of plaintiff when not to abate action.
- 70—To compel continuance or abandonment of action in case of death.
- 71—Ejectment to be brought by writ.
- 72—Form and duration of writ of ejectment.
- 73—Service of writ of ejectment.
- 74—Appearance of persons named in the writ.
- 75—Appearance of persons not named.
- 76—Appearance and defence by landlord.
- 77—Notice to defend for part only.

SECTION

- 78—Defence by persons not in possession.
- 79—Judgment for default of appearance, &c.
- 80—Issue how made up.
- 81—Special cases may be stated.
- 82—Trial of issue.
- 83—Verdict when title appears to have expired before trial.
- 84—Non-appearance at trial.
- 85—Judgment upon finding for claimant.
- 86—Execution for recovery of possession and costs may be joint or separate.
- 87—Defence by joint tenants, tenants in common or coparceners.
- 88—Trial and judgment against joint tenants, &c.
- 89—Action not to abate by death.
- 90—Proceedings upon death before trial where right survives.
- 91—Proceedings upon death before trial where right does not survive.
- 92—Upon death of one of several claimants having obtained a verdict.
- 93—Proceedings in case of death of claimant where right does not survive.
- 94—Proceedings upon death of one of several joint-defendants.
- 95—Upon death of all the defendants in ejectment before trial.
- 96—Upon death of all defendants in ejectment after verdict.
- 97—Upon death of defendant, defending separately.
- 98—In case of death of one of several defendants.
- 99—Claimant may discontinue by notice.
- 100—Discontinuance of action by one of several claimants.
- 101—Plaintiff may be compelled to proceed or be non-suited.
- 102—Defendants may confess judgment.
- 103—Effect of judgment.
- 104—Tenants to give notice of ejectment to landlord.
- 105—Proceedings in ejectment by landlord for non-payment of rent. Proviso as to mortgages.
- 106—Lessee proceeding in equity not to have injunction and relief without payment of rent and costs.
- 107—Tenant paying all rent with costs, proceedings to cease.
- 108—Saving of former remedies.
- 109—Ejectment by mortgagee.
- 110—Provision for certain cases.

SECTION

- 111—Jurisdiction of Court and Judges in action of ejectment.
- 112—Replevin. By whom to be granted.
- 113—Sheriff to take bond from parties replevying.
- 114—Bond may be assigned by Sheriff.
- 115—Declaration and proceedings thereon. No writ of enquiry. Damages to be assessed before the Court.
- 116—Particulars of rent distrained for to be furnished.
- 117—Plaintiff in replevin may pay money into Court.
- 118—To extend to all cases of replevy.
- 119—Arbitration. Power of Court or Judge to direct arbitration before trial.
- 120—Special case may be stated.
- 121—Arbitrator may state special case.
- 122—Power of Judge to direct arbitration.
- 123—Proceedings before and power of arbitrator.
- 124—Power to send back to arbitrator.
- 125—Application to set aside award.
- 126—If action commenced by one party after all have agreed to arbitration, Court or Judge may stay proceedings.
- 127—On failure of parties or arbitrators Judge may appoint single arbitrator or umpire.
- 128—When reference is to two arbitrators and one party fails to appoint, other party may appoint arbitrator to act alone. Proviso.
- 129—Two arbitrators may appoint umpire.
- 130—Court or Judge may extend time for making award.
- 131—Arbitration ejectment rule to deliver possession of land pursuant to award enforced as a judgment in ejectment.
- 132—Agreement or submission in writing may be made rule of Court.
- 133—Power of arbitrator not revocable.
- 134—Mandamus. Action for
- 135—Declaration in action for mandamus.
- 136—Proceedings upon claim for mandamus.
- 137—Judgment and execution.
- 138—Form of peremptory writ.
- 139—Effect of mandamus and proceedings to enforce it.

SECTION

- 140—The Court may order the act to be done at the expense of the defendant.
- 141—Prerogative writ of mandamus preserved.
- 142—Proceedings for prerogative writ of mandamus accelerated.
- 143—Injunction. Claim of writ of.
- 144—Form of summons and endorsements thereon.
- 145—Form of proceedings and of judgment.
- 146—Writ of injunction may be applied for at any stage of cause.
- 147—Effect of injunctions and orders to stay proceedings.
- 148—Costs.
- 149—Partition. Joint tenants, &c., may claim.
- 150—Upon default of appearance, Court will examine title and give judgment, &c.
- 151—When final judgment to be entered; persons under disabilities may apply to set aside proceedings in one year after removal of such disability.
- 152—Proceedings in case of inequality of partition.
- 153—In case of appearance issue to be tried by jury.
- 154—Partition of property of infants, &c.
- 155—Record of partition to be registered.
- 156—Action *ex contractu* under \$100 to be summary.
- 157—Specific delivery of chattels.
- 158—Specific delivery of goods sold.
- 159—Affidavits on new matter.
- 160—Power to adjourn trial.
- 161—Court may try issue and assess damages in certain cases.
- 162—On motion in arrest of judgment, omitted facts may be suggested.
- 163—Judgment to follow result of suggestion.
- 164—Loss of note, &c., not to be set up as a defence.
- 165—*Scire facias* on judgment of assets *in futuro*.
- 166—Computation of time.
- 167—Amendments.
- 168—General rules may be made by Judges. Practice of Court of Queen's Bench. Schedule of Forms.

1. All personal actions in the Supreme Court in St. John's shall be commenced by writs either of summons, attachment or *capias*, in one or other of the forms contained in the schedule to this chapter. Such

writs shall be issued under the seal of the Court (if issued in St. John's), and be signed by the Clerk or a commissioner thereof, and shall bear date on the day of the issuing of the same, and be tested in the name of the Chief Justice, or senior Judge if there be no Chief Justice.

2. Every such writ shall be endorsed with the name and address of the attorney suing out the same, and in case no attorney shall be employed to issue the writ, then it shall be endorsed with a memorandum expressing that it has been sued out by the plaintiff in person, and mentioning an address in St. John's at which it shall be sufficient to leave all pleadings, rules, orders and other proceedings for him : Provided that in case such address is not given, then service of all matters aforesaid at the office of the Chief Clerk of the said Court in St. John's shall be sufficient. Every such writ shall also contain the endorsements numbers one and two, mentioned in the schedule, and, where the action shall be for a specific debt, shall also contain an endorsement as in form number three, of the amount and particulars of such debt and of the costs claimed thereon, with a notice that on payment of such debt and costs within four days after service of the writ, proceedings in such action will be stayed ; but the defendant shall be at liberty upon such payment to have the costs taxed by the proper officer : Provided that where the defendant or person on whom the writ is to be served shall reside beyond the limits of the central district, the number of days for appearance shall be eight from the time of service.

3. The plaintiff shall be at liberty at any time during six months from the issuing of the original writ to issue one or more concurrent writs into other districts than that into which such original writ was issued ; but such writs shall be marked "concurrent" by the officer of the Court, and shall be in force only during such time as the original writ shall be in force.

4. No original writ shall be in force for a longer period than six months ; but if not completely executed within that time, alias and pluries writs of the like force and duration, marked "alias" and "pluries" by the officer of the Court, may be issued as may be necessary, and shall be available to prevent the operation of any statute limiting the commencement of the action, and for all other purposes.

5. In all actions *ex contractu*, where the amount sought to be recovered shall exceed one hundred dollars, and in all actions *ex delicto*, a declaration, in such form as shall be by law prescribed, shall be annexed to the original writ at the issuing thereof, and true copies of

such declaration shall be annexed at the time of service to the copies of the writ served upon the defendant.

SERVICE OF PROCESS.

6. Writs issued against a corporation aggregate may be served upon the chief officer, secretary or treasurer of such corporation. The service of every such writ in other cases shall be personal on every defendant within the jurisdiction of the Court, and upon the partner or recognised agent, if any such within the jurisdiction, of any defendant being or residing out of such jurisdiction; but the Court or a Judge thereof may order substituted service upon the Clerk of the Court for any defendant within the jurisdiction, upon it being made to appear to such Judge or Court that such writ has come to the knowledge of such defendant, and that he evades service thereof; and substituted service shall be as valid and effectual as personal service upon such defendant.

7. In case any defendant shall reside out of this Colony, having no partner or recognized agent therein, the writ may be served upon such defendant, and the same shall, in addition to all other endorsements required by the previous sections of this chapter, contain the endorsement number four, in the schedule annexed; and the time for appearance by the defendant to such writ shall be regulated by the distance of the place where the defendant is residing; and the Court or Judge, upon being satisfied by affidavit that there is a cause of action which arose within the jurisdiction, and that the writ was personally served upon the defendant, or that reasonable efforts were made to effect personal service thereof upon the defendant, and that it came to his knowledge, and either that the defendant wilfully neglects to appear to such writ, or that he is living out of the jurisdiction of the said Court in order to defeat and delay his creditors, may direct from time to time that the plaintiff shall be at liberty to proceed in the action in such manner and subject to such conditions as to the Court or Judge may seem fit, having regard to the time allowed for the defendant to appear being reasonable, and to the other circumstances of the case: Provided that the plaintiff shall and he is hereby required to prove the amount of the debt or damages claimed by him in such action, either before a jury or before one of the Masters of the said Court in the manner hereinafter provided, according to the nature of the case, as the Court or Judge may direct; and the making such proof shall be a condition precedent to his obtaining judgment.

8. The omission to insert or endorse on any writ any matter required by this chapter shall not render the writ void, but shall be an irregularity for which it may be set aside or amended, on such terms as the Court or a Judge thereof may think proper.

9. A writ for service within the jurisdiction may be issued and marked as a concurrent writ with one for service out of the jurisdiction, and a writ for service out of the jurisdiction may be issued and marked as a concurrent writ with one for service within the jurisdiction.

ABSENT DEFENDANTS, &c.

10. For the purpose of enabling the Court or Judge to direct proceedings to be taken against a defendant residing out of the jurisdiction, as also for the purpose of issuing writs of *capias* or attachment under the eleventh and eighteenth sections of this chapter, where the affidavits to ground such writs shall be sworn out of the Colony, it shall be sufficient if the affidavit be sworn before a Judge of a Superior Court, a Mayor or Chief Magistrate, a Commissioner of Affidavits, Consul or Consular Agent at any port or place; and every affidavit so sworn may be used and shall be admitted in evidence, saving all just exceptions: Provided that such affidavit shall purport to be signed by such Judge, Mayor, Commissioner, Consul or Consular Agent, and certified under his official seal, or, where there shall be no official seal, shall be verified by affidavit before some competent authority, within the jurisdiction aforesaid, of the official character and signature of the officer before whom it shall have been sworn, or by such official character and signature being verified by certificate purporting to be under the hand and seal of a Consular Officer or Notary Public: Provided that if any person shall forge the signature or seal of any such affidavit or certificate, or shall use or tender in evidence any such affidavit or certificate with a false or counterfeit signature or seal thereto, knowing the same to be false or counterfeit, he shall be guilty of felony, and shall upon conviction be liable to be banished for a period not exceeding seven years, or imprisoned with hard labor for any time not exceeding three years, nor less than one year. And every person who shall be charged with committing any felony under this chapter, and every accessory before or after the fact, may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence may be laid and charged to have been committed in the district or place where he shall be apprehended or be in custody.

ARREST.

11. No original writ of *capias* shall issue out of the said Court except upon the filing of a sufficient affidavit to be made by the plaintiff, or some one on his behalf, before a Judge, Commissioner of Affidavits, or a Clerk of the said Court, or, where made out of this Colony, before one or other of the authorities mentioned in the foregoing section, and verified in the same way, showing the defendant to be justly and truly indebted to the plaintiff in a liquidated amount of fifty dollars, or upwards, in a legal cause of action to be therein set forth; but the Court or a Judge thereof may authorize the issuing of a writ of *capias*, where the debt or damages are unliquidated, upon sufficient cause to be shown in that behalf.

12. The following persons shall be exempt from arrest on original process, namely, the Judges of the Supreme Court, the members and officers of the legislature while in session, and for ten days before and after such session; practising barristers and attorneys, except when about to leave this Colony; jurors, parties and witnesses to a suit going to, remaining in and returning from Court. Clergymen and females shall be exempt from arrest on both original and final process.

13. No person shall be arrested a second time on original process for the same cause of action without the order of a Judge.

14. No person regularly arrested on an original, alias, or pluries writ of *capias* shall be discharged from custody, except by the termination of the suit in his favor, or otherwise by operation of law, until he shall have given bond with two sufficient sureties to the Sheriff in double the sum sworn to, conditioned as in the form in the schedule annexed, or until he shall have deposited with the Sheriff to abide the order of the Court in the cause an amount equal to the sum sworn to, and a further sum for costs, according to the proportions provided in the twenty-seventh section of this chapter in cases of attachment.

15. The plaintiff in any action commenced by *capias* may direct the Sheriff to arrest only one or more of the defendants, and to serve the other defendants with copies of the writ and declaration, and a copy of such writ and declaration shall always be served upon a defendant arrested, at the time of the arrest being made.

BAIL.

16. A defendant need not put in bail above in any suit in which he may have been arrested, but the bail-bond or deposit aforesaid shall be and stand as security to the plaintiff to abide the final judgment in

the cause. Every defendant who shall have given bail as aforesaid shall within fourteen days thereafter obtain the plaintiff's assent in writing or a Judge's order, to be made upon sufficient proof, after hearing the parties, declaring the sufficiency of such bail; and upon such assent or order being duly made and filed, the liability of the Sheriff with respect to such bond shall cease. In default of such assent or order the Sheriff shall proceed forthwith upon the bond for the recovery of the sum sworn to, and such further sum aforesaid, and hold the same as an indemnity against any claim that may be preferred against him as hereinafter mentioned. Such bail at any time before a *capias ad satisfaciendum* shall have issued in the cause, or within four days thereafter, upon obtaining a Judge's order in that behalf, to be made as of course, or after any further time upon affidavit, if a Judge shall see fit, and upon such terms as he may direct and upon payment of the costs (if any) incurred by the Sheriff in any action as aforesaid, may render the defendant to the custody of the Sheriff in discharge of their bond; and where such render shall be before execution as aforesaid, such defendant shall not again be discharged but by operation of law until he shall have given sufficient security, to the satisfaction of a Judge, to pay the amount of any judgment that may be or may have been obtained against him, or to render himself to the Sheriff within four days after a *capias ad satisfaciendum* shall have issued against him thereon.

17. Upon a breach occurring in the condition of such bond after judgment, the same shall be assigned by the Sheriff to the plaintiff, who may sue thereon in his own name; and if by reason of the insufficiency of such bond, or of the sureties therein, where no such order or assent as aforesaid has been had, the plaintiff shall fail to recover the amount of the sum sworn to, and such further sum for costs as aforesaid, he may recover any deficiency in such amounts in an action on the case against the Sheriff.

ATTACHMENT.

18. No original writ of attachment shall issue out of the said Court except upon the filing of a sufficient affidavit, to be made by the plaintiff, or some one on his behalf, before a Judge, Commissioner of Affidavits or a Clerk of the said Court, or, where made out of this Colony, before some one or other of the authorities mentioned in the tenth section, and verified in the same way, shewing the defendant to be justly and truly indebted to the plaintiff in a liquidated amount of

twenty dollars or upwards, in a legal cause of action to be therein set forth; but the Court or a Judge thereof may authorize the issuing of a writ of attachment where the debt or damages are unliquidated, upon sufficient cause to be shewn in that behalf.

19. No property, debts or effects, regularly attached under original, alias or pluries writs of attachment, shall be released except by the termination of the suit in favor of the defendant, or otherwise by operation of law, until the defendant, or some one on his behalf, shall have given bond with two sufficient sureties to the Sheriff in double the sum sworn to, conditioned as in the form in the schedule annexed, or until he shall have deposited with the Sheriff, to abide the order of the Court in the cause, an amount equal to the sum sworn to, and such amount for costs as is provided in the twenty-seventh section of this chapter.

20. Such bail-bond shall stand and be security to the plaintiff to abide the final judgment in the cause; and upon a breach occurring in the condition thereof, the same shall be assigned by the Sheriff to the plaintiff, who may sue thereon in his own name; and if by reason of the insufficiency of such bond, or of the sureties therein, the plaintiff shall fail to recover the amount of the sum sworn to, and such further sum for costs as aforesaid, he may recover any deficiency in such amounts in an action on the case against the Sheriff.

21. When the goods or effects attached under any process of the said Court shall be of a perishable nature, or be such as either from the expense of holding the same, or from other circumstances, may considerably deteriorate in value before judgment can be obtained in the action or suit in which such goods or effects may have been attached, and good and sufficient bail to satisfy the judgment, order, or decree of the said Court shall not have been put in by the defendant or defendants, the Court, or a Judge thereof, may, on the application of any plaintiff or defendant, order the immediate appraisement and sale of such goods or effects, or of a sufficiency thereof to satisfy the debt and costs, and direct the proceeds thereof to be paid into Court, to abide the further order, judgment or decree of the Court in such action or suit.

22. So often as any goods, debts or effects of any defendant in any action or suit now depending or hereafter to be brought in the said Court, have been or shall be attached in the hands of any third person, such goods, debts or effects shall be paid into Court or delivered to the Sheriff as the case may be, to abide the order, judgment, or decree of the said Court; and for the purpose of ascertaining the nature and

amount of such goods, debts, or effects, the Court or a Judge thereof may, on the application of either party to the suit, summon such third person, or, in the event of his absence from the Colony, his agent, to appear before such Court or Judge to be examined upon oath, or cause such third person to be examined on oath, under rule, order, or commission, and thereupon make order for the payment into Court, or delivery to the Sheriff, as the case may be, of such goods, debts or effects, and for the realization by the Master, by action or suit (if necessary), in his own name or otherwise, of such effects as may consist of choses in action, and enforce such order by process of contempt: Provided that no such attachment as aforesaid shall be deemed to operate on or to affect any contract executory, upon which at any day after the service of the warrant of attachment any sum of money shall or may accrue or become payable to any defendant for or on account of any work, labour, or service to be executed, performed, or completed by such defendant at any time after the service of such warrant of attachment upon the bailee; nor upon any moneys, goods, debts, or effects in and over which such defendant shall not have, at the time of the service of any such warrant of attachment, a then present interest and disposing power.

23. When any debt which has been or shall be so attached as aforesaid shall be payable in goods to be specified by the defendant, to whom such debt shall be owing, and such defendant shall neglect or refuse to specify the same previously to or at the time of such examination as aforesaid, such goods to the amount of the debt so attached shall be delivered to the Sheriff as the plaintiff in any such action or suit shall direct.

24. When any lands or tenements, or the interest of any person therein, shall be attached by virtue of any process of the Court, the Sheriff, his deputy or bailiff, shall serve notice of such attachment on the tenants, occupiers, or owners of such lands or tenements; and thereafter the rents, profits, or annuities to which such person may be entitled from such lands or tenements, whether then in arrear or thereafter to grow due until final judgment, or so much thereof as shall be sufficient to satisfy the plaintiff's demand with reasonable costs, shall (after deducting thereout ground rents if any) be paid to the Sheriff, to abide the order, judgment or decree of the said Court, and the like proceedings may be had for ascertaining the nature and amount of such rents, profits, or annuities, and for enforcing payment of the same according to the orders of the Court, as are hereinbefore prescribed with

respect to goods, debts or effects, attached in the hands of a third person.

25. Any party who shall have obtained judgment, may issue a writ of *fiery facias* thereupon, and cause warrants under such writ of *fiery facias* to be placed in the hands of any party having the custody or control of any monies, goods, debts or effects of the defendant or plaintiff, as the case may be; and the like proceedings shall be had to examine persons holding the said monies, goods, debts or effects, to cause the said money to be paid into Court, or the said goods to be sold, and where such effects shall consist of choses in action, to cause the same to be realized, and the proceeds paid into Court, under such warrants as are had under warrants laid in virtue of mesne process.

26. Property, debts and effects attached under original or final process, shall abide the judgment, order or decree of the said Court, in the cause in which they have been attached.

27. The Sheriff shall in all cases of attachment by original process, in addition to the amount sworn to, attach for costs as follows: where the sum sworn to does not exceed fifty dollars, the sum of fifteen dollars; where it exceeds fifty dollars and does not exceed two hundred dollars, the sum of twenty-five dollars; where it exceeds two hundred dollars and does not exceed four hundred dollars, the sum of thirty dollars; and where it exceeds four hundred dollars, the sum of fifty dollars; and in cases of attachment under execution, in addition to the amount of the judgment, he shall attach for the costs of execution.

28. In all actions commenced by *capias* or attachment, the plaintiff shall proceed to trial in the term first after the issuing of the writ, and if issued in term during such term, and to judgment and execution within ten days after trial, unless prevented by the action of the defendant; and in default of his so doing, the Court or a Judge thereof, as the case may require, may cause the defendant or the property attached to be released or the bail-bond to be cancelled: Provided that the Court or a Judge may, upon sufficient cause, extend the time for any proceeding under this section.

NON-APPEARANCE AND DEFAULT.

29. In case of the defendant not appearing and pleading, where the writ contains the special endorsement, number three, the plaintiff may, on filing an affidavit of service of the writ and declaration, and of the order of the Court or a Judge under the provisions of this chapter, where the defendant resides out of the Colony, at once sign final judg-

32. All such proceedings as are mentioned in any writ or notice issued under this chapter, shall be had and taken in default of a defendant's appearing and pleading, and without further notice to the defendant: Provided the required service of the original writ, and of the declaration where required, be first duly verified by affidavits filed therewith two days previously.

33. In any action brought against two or more defendants, where the writ is endorsed in the special form hereinbefore provided, if one or more of such defendants only shall appear and plead, and another or others of them shall not appear and plead, the plaintiff may sign judgment against such defendant or defendants only as shall not have appeared and pleaded, and issue execution thereupon, in which case he shall be taken to have abandoned his action against the defendant or defendants who shall have appeared and pleaded, or the plaintiff may, before issuing such execution, proceed against such defendant or defendants as shall have appeared and pleaded, stating by way of suggestion on the roll the judgment obtained against the other defendant or defendants, who shall not have appeared and pleaded, in which case the judgment so obtained against the defendant or defendants who shall not have appeared and pleaded, shall operate and take effect in like manner as a judgment by default obtained against one or more of the several defendants in an action of debt formerly did.

CONFESSION.

34. The forms for entering up judgment on warrants of attorney to confess judgment, and on confessions, shall be substantially as follows, namely: At the conclusion of a declaration in accordance with, and to be filed with the warrant of attorney, and in the case of a confession at the conclusion of a declaration, or with the summary writ to be filed with the cognovit, add,

"And the defendant confesses judgment to the amount of \$
and costs of suit. Therefore, it is considered that the plaintiff do recover against the said defendant the sum of \$ and his said costs, amounting to a further sum of \$

Dated

day of

Anno Domini

M. W. W.

C. C. & Reg.

35. No judgment shall be signed upon a cognovit or warrant of attorney, signed by the defendant himself, and not by his attorney, unless an affidavit by the subscribing witness to such cognovit or warrant of attorney, of the due execution thereof, be previously filed.

JOINDER OF PARTIES.

36. The Court or a Judge may, at any time before the trial of any cause, order that any person not joined as plaintiff in such cause, shall be so joined; or that any person originally joined as plaintiff shall be struck out from such cause, if it shall appear to such Court or Judge that injustice will not be done by such amendment, and that the person to be added as aforesaid consents, either in person or by his attorney, or by writing under his hand, to be so joined, or that the person to be struck out as aforesaid was originally introduced without his consent, or that such person consents in manner aforesaid to be struck out; and such amendment shall be made upon such terms as to the amendment of the pleadings (if any), postponement of the trial, and otherwise, as the Court or Judge by whom such amendment is made shall think proper; and when any such amendment shall have been made, the liability of any person who shall have been added as co-plaintiff shall, subject to any terms imposed as aforesaid, be the same as if such person had been originally in such cause.

37. In case it shall appear at the trial of any action that there has been a mis-joinder of plaintiffs, or that some person not joined as plaintiff ought to have been so joined, and the defendant shall not at or before the time of pleading have given notice in writing that he objects to such non-joinder, specifying therein the name of such person, such mis-joinder or non-joinder may be amended as a variance at the trial by the Court or Judge holding plea in civil actions, in like manner as to the mode of amendment and the proceedings consequent thereon, or as near thereto as the circumstances of the case will admit, as in case of amendments of variances under an act of the Imperial Parliament passed in the session of Parliament held in the third and fourth years of the reign of his late Majesty King William the Fourth, entitled "An act for the further amendment of the law, and the better advancement of justice," if it shall appear to such Court or Judge that such mis-joinder or non-joinder was not for the purpose of obtaining an undue advantage, and that injustice will not be done by such amendment, and that the person to be added as aforesaid consents either in person, or by his attorney, or by writing under his hand, to be so joined, or that the person to be struck out as aforesaid was originally introduced without his consent, or that such person consents in manner aforesaid to be so struck out; and such amendment shall be made upon such terms as the Court or Judge, by whom such amendment is made, shall think

proper; and when any such amendment shall have been made, the liability of any person who shall have been added as co-plaintiff shall, subject to any terms as aforesaid, be the same as if such person had been originally joined in such action.

38. In case such notice be given, or any plea in abatement of non-joinder of a person as co-plaintiff (in cases where such plea in abatement may be pleaded) be pleaded by the defendant, the plaintiff may, without any order, amend the writ and other proceedings before plea by adding the name of the person named in such notice or plea in abatement, and proceed in the action without any further appearance, on payment of the costs of and occasioned by such amendment only; and in such case the defendant shall be at liberty to plead *de novo*.

39. The Court or Judge, in case of the joinder of too many defendants in any action on contract, at any time before the trial of such cause, may order the name or names of one or more of such defendants to be struck out, if it shall appear to such Court or Judge that injustice will not be done by such amendment, and the amendment shall be made upon such terms as the Court or Judge by whom such amendment is made shall think proper; and if it shall appear at the trial of any action on contract that there has been a mis-joinder of defendants, such mis-joinder may be amended as a variance at the trial, in like manner as the mis-joinder of plaintiffs has been hereinbefore directed to be amended, and upon such terms as the Court or Judge, by whom such amendment is made, shall think proper.

40. In any action on contract where the non-joinder of any person as co-defendant has been pleaded in abatement, the plaintiff may without any order amend the writ and declaration by adding the name of the person named in such plea in abatement as a joint contractor, and serve the amended writ and declaration upon the person so named in such plea in abatement, and proceed against the original defendant and the person so named in such plea in abatement: Provided that the date of such amendment shall, as between the person so named in such plea in abatement and the plaintiff, be considered for all purposes as the commencement of the action.

41. In all cases after such plea in abatement and amendment, if it shall appear upon the trial of the action that the person so named in such plea in abatement was jointly liable with the original defendant, the original defendant shall be entitled as against the plaintiff to the costs of such plea in abatement and amendment; but if at such trial it shall appear that the original defendant or any of the original defend-

ants is or are liable, but that one or more of the persons named in such plea in abatement is or are not liable as a contracting party or parties, the plaintiff shall nevertheless be entitled to judgment against the other defendant or defendants who shall appear to be liable; and every defendant who is not so liable shall have judgment, and shall be entitled to his costs as against the plaintiff, who shall be allowed the same together with the costs of the plea in abatement and amendment, as costs in the cause against the original defendant or defendants who shall have so pleaded in abatement the non-joinder of such person: Provided that any such defendant who shall have so pleaded in abatement shall be at liberty on the trial to adduce evidence of the liability of the defendants named by him in such plea in abatement; and also, that no plea in abatement for non-joinder of a defendant shall be good unless it state that such defendant resides at a place shown by the said plea to be within the jurisdiction of the Court, and unless it be accompanied by an affidavit of verification.

JOINDER OF CLAIMS.

42. In any action brought by a man and his wife for any injury done to the wife, in respect of which she is necessarily joined as plaintiff, the husband may add thereto claims in his own right; and separate actions brought in respect of such claims may be consolidated if the Court or Judge shall think fit: Provided that in case of the death of either plaintiff, such suit, so far only as relates to the causes of action (if any) which do not survive, shall abate. And in any action brought against a husband and wife, cause of action against the husband may be joined, subject in case of the death of either defendant to abatement of any cause of action that would not survive.

43. Causes of action of whatever kind, provided they be by and against the same parties, and in the same right, may be joined in the same suit; but this shall not extend to replevin or ejectment; and where two or more of the causes of action so joined are local, and arise in different districts, the *venue* may be laid in either of such districts, but the Court or a Judge may prevent the trial of different causes of action together, if such trial would be inexpedient, and in such case such Court or Judge may order separate records to be made up, and separate trials to be had.

SPECIAL CASES.

44. Where the parties to an action are agreed as to any question of

law or fact to be decided between them, they may, after writ issued and before judgment, by consent, and by order of the Court or a Judge, proceed to the trial and determination of such question of law or fact, without formal pleading, and such question may be stated in the form in the schedule annexed; and such question, if of fact, may be tried and determined by the Court or a jury as may be agreed upon; and if of law, may be heard and determined by the Court; and such hearing, trial, and determination shall be attended by and be subject to the like incidents, in all respects, as to judgment, costs, execution and other proceedings, as if had and conducted upon formal pleadings.

PAYMENT INTO COURT.

45. Defendant in all actions except actions for false imprisonment, libel, slander, malicious arrest or prosecution, criminal conversation, or debauching of the plaintiff's daughter or servant, but including actions on bonds with a penalty conditioned for the payment of a less sum, and actions for detaining the goods of the plaintiff, and by leave of the Court or a Judge, and upon such terms as they or he may think fit, one or more of several defendants may pay into Court a sum of money by way of compensation or amends.

46. When money is paid into Court, such payment shall be pleaded in all cases, as nearly as may be, in the following form, *mutatis mutandis*:—

The defendant by his attorney, (or in person, &c.
If pleaded to part say, "as to parcel of the money
claimed") brings into Court the sum of and says that
the said sum is enough to satisfy the claim of the plaintiff in respect
of the matter herein pleaded to.

47. No rule or Judge's order to pay money into Court shall be necessary, except in the case of one or more of several defendants, but the money shall be paid to the proper officer of the Court, who shall give a receipt for the amount in the margin of the plea, and the said sum shall be paid out to the plaintiff or his attorney.

48. The plaintiff, after the delivery of a plea of payment of money into Court, may reply to the same by accepting the sum so paid into Court in full satisfaction and discharge of the cause of action in respect of which it has been paid in, and in that case may tax his costs of suit, and in case of non-payment thereof within forty-eight hours, sign judgment for his costs of suit so taxed; or the plaintiff may reply that the sum paid into Court is not enough to satisfy the claim of the plaintiff in the matter to which the plea is pleaded; and in the event

of an issue thereon being found for the defendant, the defendant shall be entitled to judgment and his costs of suit.

TRIAL AND JUDGMENT.

49. Eight days' notice of trial shall be given in continued causes, and twenty-four hours' notice shall be given in causes tried in the term in which issue is joined.

50. When any cause shall not have been tried in the term in which issue was joined, the defendant may give eight days' notice to the plaintiff to bring on the issue for trial in the ensuing or any subsequent term; and unless such cause shall be tried during such term, the defendant may suggest on the record that the plaintiff has failed to proceed to trial, although duly required so to do, and sign judgment of non-suit therein against the plaintiff (which suggestion shall not be traversable, but only subject to be set aside if untrue), and also sign judgment for his costs: Provided that the Court or Judge, for a sufficient cause, may extend the time for such proceeding to trial, with or without terms.

51. A plaintiff or defendant having obtained a verdict in a defended cause, and a plaintiff having obtained a verdict in an undefended cause, shall be entitled to sign judgment and issue execution after four days thereafter; but the Court or a Judge, for a sufficient cause, may shorten or extend the time for such judgment and execution, with or without terms.

EXECUTION.

52. A writ of execution, if unexecuted, shall continue in force for one year, but alias and pluries writs of the like duration may be issued as long as the judgment remains unsatisfied; or such writ of execution may at any time before its expiration be renewed, by the party issuing it, for one year from the date of such renewal, and so on from time to time during the continuance of the renewed writ, by having the same re-sealed with the seal of the Court, such re-sealing being marked with the initials of the Chief Clerk or a Commissioner, together with the date of re-sealing; and a writ of execution so renewed shall have effect and be entitled to priority according to the time of the original delivery thereof.

53. Execution may be levied as well as attachment laid, upon money, choses in action, equitable interests in property, real or personal, and all other property and effects whatsoever; and for the purpose of ascer-

taining the nature and amount of goods, debts, and effects, upon which warrants under executions may be laid in the hands of third persons, and for realizing the same, and also for realizing choses in action seized under execution, the like proceedings shall be had as are prescribed in cases of attachment under the twenty-second section of this chapter.

54. No writ of *fiery facias* or other writ of execution against the goods of a debtor shall prejudice the title to such goods acquired by any person *bona fide* and for a valuable consideration before the actual seizure thereof, by virtue of such writ. Provided such person had not, at the time when he acquired such title, notice that such or any other writ by virtue of which the goods of such owner might be seized had been delivered to and remained unexecuted in the hands of the Sheriff, deputy Sheriff or Coroner.

55. During the lives of the parties to a judgment, or those of them during whose lives execution may at present issue within a year and a day, without a *scire facias*, and within six years from the recovery of the judgment, execution may issue without a revival of the judgment.

REVIVOR.

56. In cases where it shall become necessary to revive a judgment by reason either of lapse of time, or of a change by death, or otherwise, of the parties entitled or liable to execution, the party alleging himself to be entitled to execution may either sue out a writ of revivor in the form hereinafter mentioned, or apply to the Court or a Judge for leave to enter a suggestion on the roll, to the effect that it manifestly appears to the Court that such party is entitled to have execution of the judgment, and to issue execution thereupon; such leave to be granted by the Court or a Judge upon a rule to show cause, or a summons to be served according to the present practice, or in such other manner as such Court or Judge may direct, and which rule or summons may be in the form contained in the schedule to this chapter annexed, or to the like effect.

57. Upon such application, in case it manifestly appears that the party making the same is entitled to execution, the Court or Judge shall allow such suggestion as aforesaid to be entered in the form contained in the schedule to this chapter annexed, or to the like effect, and execution to issue thereupon, and shall order whether or not the costs of such application shall be paid to the party making the same; and in case it does not manifestly so appear, the Court or Judge shall discharge the rule or dismiss the summons, with or without costs:

Provided, nevertheless, that in such last mentioned case, the party making such application shall be at liberty to proceed by writ of revivor or action upon the judgment.

58. The writ of revivor shall be directed to the party called upon to show cause why execution should not be awarded, and shall bear test on the day of its issuing; and after reciting the reason why such writ has become necessary, it shall call upon the party to whom it is directed to appear, within four days after service thereof, to show cause why the party at whose instance such writ has been issued should not have execution against the party to whom such writ is directed; and it shall give notice that, in default of appearance, the party issuing such writ may proceed to execution; and such writ may be in the form contained in the schedule to this chapter annexed, or to the like effect, and may be served in any district and otherwise proceeded upon, whether in term or vacation, in the same manner as a writ of summons; and the *venue* in a declaration upon such writ may be laid in any district, and the pleadings and proceedings thereupon, and the rights of the parties respectively to costs, shall be the same as in an ordinary action.

59. All writs of *scire facias* issued out of the said Court against members of a joint-stock company or other body, upon a judgment recorded against a public officer or other person sued as representing such company or body, or against such company or body itself, by or against a husband to have execution of a judgment for or against a wife, upon a suggestion after judgment for any penal sum, pursuant to the statute passed in the Imperial Parliament in the session holden in the eighth and ninth years of the reign of King William the Third, entitled "An act for the better preventing frivolous and vexatious suits," shall be tested, directed and proceeded upon in like manner as writs of revivor.

60. Notice in writing to the plaintiff, his attorney or agent, shall be sufficient appearance to writ of revivor.

61. A writ of revivor to revive a judgment less than ten years old shall be allowed without any rule or order; if more than ten years old, not without a rule of Court or a Judge's order; nor if more than fifteen years, without a rule to shew cause.

62. The death of a plaintiff or defendant shall not cause the action to abate, but it may be continued as hereinafter mentioned.

63. If there be two or more plaintiffs or defendants, and one or more of them should die, if the cause of such action shall survive to

the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, the action shall not be thereby abated; but such death being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs against the surviving defendant or defendants.

64. In case of the death of a sole plaintiff, or sole surviving plaintiff, the legal representative of such plaintiff may, by leave of the Court or a Judge, enter a suggestion of the death, and that he is such legal representative, and the action shall thereupon proceed; and if such suggestion be made before trial, the truth of the suggestion shall be tried thereat, together with the title of the deceased plaintiff; but such judgment shall follow upon the verdict in favor of or against the person making such suggestion, as if such person were originally the plaintiff.

65. In case of the death of a sole defendant or sole surviving defendant, where the action survives, the plaintiff may make a suggestion either in any of the pleadings if the cause have not arrived at issue, or in a copy of the issue if it have so arrived, of the death; and that a person named therein is the executor or administrator of the deceased; and may thereupon serve such executor or administrator with a copy of the writ and suggestion, and with a notice signed by the plaintiff or his attorney requiring such executor or administrator to appear within eight days after service of the notice, inclusive of the day of such service, and that in default of his so doing, the plaintiff may sign judgment against him as such executor or administrator; and the same proceedings may be had and taken, in case of non-appearance after such notice, as upon a writ against such executor or administrator in respect of the cause for which the action was brought; and in case the plaintiff shall have declared, but the defendant shall not have pleaded before the death, the new defendant shall plead at the same time to the declaration and suggestion; and in case the defendant shall have pleaded before the death, the new defendant shall be at liberty to plead to the suggestion only by way of denial, or such plea as may be appropriate to and rendered necessary by his character of executor or administrator, unless by leave of the Court or a Judge he should be permitted to plead fresh matter in answer to the declaration; and in case the defendant shall have pleaded before the death, but the pleadings shall not have arrived at issue, the new defendant, besides pleading to the suggestion, shall continue the pleadings to issue in the same manner as the deceased might have done, and the

pleadings on the declaration and the pleadings on the suggestion shall be tried together ; and in case the plaintiff shall recover, he shall be entitled to the like judgment in respect of the debt or sum sought to be recovered, and in respect of the costs prior to the suggestion ; and in respect of the costs of the suggestion and subsequent thereto, he shall be entitled to the like judgment as in an action originally commenced against the executor or administrator.

66. The death of either party between the verdict and the judgment shall not hereafter be alleged for error, so as such judgment be entered within two terms after such verdict,

67. If the plaintiff in any action happen to die after an interlocutory judgment, and before a final judgment obtained therein, the said action shall not abate by reason thereof, if such action might be originally prosecuted and maintained by the executor or administrator of such plaintiff ; and if the defendant die after such interlocutory judgment and before final judgment therein obtained, the said action shall not abate, if such action might be originally prosecuted or maintained against the executor or administrator of such defendant by the plaintiff, or, if he be dead after such interlocutory judgment, his executors or administrators shall and may have a writ of revivor in the form contained in the schedule to this chapter annexed or to the like effect, against the defendant if living after such interlocutory judgment, or, if he be dead, then against his executors or administrators, to shew cause why damages in such action should not be assessed and recovered by him or them ; and if such defendant, his executors or administrators, shall appear at the return of such writ, and not shew or allege any matter sufficient to arrest the final judgment, or shall make default, assessment of damages shall be thereupon had, or the amount for which final judgment is to be signed shall be referred to one of the Masters as hereinbefore provided ; and thereafter final judgment shall be given for said plaintiff, his executors or administrators prosecuting such writ of revivor against such defendant, his executors or administrators respectively.

68. The marriage of a woman, plaintiff or defendant, shall not cause the action to abate, but the action may, notwithstanding, be proceeded with to judgment ; and such judgment may be executed against the wife alone, or by suggestion, or writ of revivor pursuant to this chapter, judgment may be obtained against the husband and wife, and execution issued thereon ; and in case of a judgment for the wife, execution may be issued thereupon by the authority of the husband

without any writ of revivor or suggestion; and if in any such action the wife shall sue or defend by attorney appointed by her when sole, such attorney shall have authority to continue the action or defence unless such authority be countermanded by the husband, and the attorney changed, according to the practice of the Court.

69. The insolvency of the plaintiff in any action which he might maintain for the benefit of the creditors, shall not be pleaded in bar to such action, unless his trustees shall decline to continue, and give security for the costs thereof, upon a Judge's order to be obtained for that purpose, within such reasonable time as the Judge may order; but the proceedings may be stayed until such election is made; and in case the trustees neglect or refuse to continue the action and give such security within the time limited by the order, the defendant may, within eight days after such neglect or refusal, plead the insolvency.

70. Where an action would, but for the provisions of this chapter, have abated by reason of the death of either party, and in which the proceedings may be revived and continued under this chapter, the defendant or person against whom the action may be so continued may apply by summons to compel the plaintiff to proceed according to the provisions of this chapter, within such time as the Judge shall order; and in default of such proceeding the defendant or other person against whom the action may be so continued as aforesaid, shall be entitled to enter a suggestion of such default, and of the representative character of the person by or against whom the action may be proceeded with, as the case may be, and to have judgment for the costs of the action and suggestion against the plaintiff or against the person entitled to proceed in his room, as the case may be, and in the latter case to be levied of the goods of the testator or intestate.

EJECTMENT.

71. In cases of ejectment, a writ shall be issued directed to the person in possession by name, and to all persons entitled to defend the possession of the property claimed, which property shall be described in the writ with reasonable certainty.

72. The writ shall state the names of all the persons in whom the title is alleged to be, and command the persons to whom it is directed to appear in the Supreme Court within four days, or, when served beyond the limits of the central district, within fourteen days after service thereof, to defend the possession of the property sued for, or such part thereof as they may think fit, and it shall contain a notice

that in default of appearance they will be turned out of possession, and shall bear test of the day on which it is issued, and shall be in force for six months, and shall be in the form contained in the schedule to this chapter annexed, or to the like effect; and the name and abode of the attorney issuing the same, or, if no attorney, the name and address of the party shall be endorsed thereon, in like manner as hereinbefore enacted, with reference to the endorsements on a writ of summons in a personal action.

73. The writ shall be served in the same manner as an ejectment has heretofore been served, or in such manner as the Court or a Judge shall order; and in case of vacant possession, by posting a copy thereof upon the door of the dwelling house, or other conspicuous part of the property.

74. The persons named as defendants in such writ, or either of them, shall be allowed to appear within the time appointed.

75. Any other person not named in such writ shall, by leave of the Court or a Judge, be allowed to appear and defend, on filing an affidavit shewing that he is in possession of the land, either by himself or his tenant.

76. Any person appearing to defend as landlord, in respect of property whereof he is in possession only by his tenant, shall state in his appearance that he appears as landlord; and such person may set up any defence which a landlord appearing in an action of ejectment has heretofore been allowed to set up, and no other.

77. Any person appearing to such writ may limit his defence to a part only of the property mentioned in the writ, describing that part with reasonable certainty in a notice intituled in the Court and cause, and signed by the party appearing, or his attorney, such notice to be served at the time of appearance upon the attorney whose name is endorsed on the writ, if any, and if none, then to be filed in the Master's office; and an appearance, without such notice, confining the defence to part, shall be deemed an appearance to defend for the whole.

78. The Court or a Judge may strike out or confine appearances or defences set up by persons not in possession by themselves or their tenants.

79. In case no appearance shall be entered within the time appointed, or if an appearance be entered, but the defence be limited to part only, the plaintiff shall be at liberty to sign judgment that the person whose title is asserted in the writ shall recover possession of the land, or of the part thereof to which the defence does not apply; which

judgment, if for all, may be in the form contained in the schedule to this chapter annexed, or to the like effect, and if for part may be in the form contained in the schedule to this chapter annexed, or to the like effect, the writ with the affidavit of service having been filed in Court for four days previously to the signing of judgment.

80. In case an appearance shall be entered, an issue may at once be made up, without any pleadings, by the claimants or their attorney, setting forth the writ, and stating the fact of the appearance, with its date, and the notice limiting the defence, if any, of each of the persons appearing, so that it may appear for what defence is made, and directing the Sheriff to summon a jury; and such issue, in case defence is made, whether for the whole or for part, may be in the form contained in the schedule to this chapter annexed, or to the like effect.

81. By consent of the parties and by leave of a Judge, a special case may be stated according to the practice heretofore used or herein prescribed.

82. The claimants may, if no special case be agreed to, proceed to trial upon the issue, in the same manner as in other actions; and the question at the trial shall, except in cases hereinafter mentioned, be whether the statement in the writ of the title of the claimants be true or false, and if true, then which of the claimants is entitled, and whether to the whole or part, and if to part, then to which part of the property in question; and the entry of the verdict may be made in the form contained in the schedule to this chapter annexed, or to the like effect, with such modifications as may be necessary to meet the facts.

83. In case the title of the claimant shall appear to have existed as alleged in the writ, and at the time of service thereof, but it shall also appear to have expired before the time of the trial, the claimant shall, notwithstanding, be entitled to a verdict according to the fact that he was so entitled at the time of bringing the action and serving the writ, and to a judgment for his costs of suit.

84. If the defendant appear and the claimant do not appear at the trial, the claimant shall be non-suited and the defendant shall recover his costs of suit; and if the claimant appear and the defendant do not appear, the claimant shall be entitled to recover judgment as heretofore, with his costs of suit, without any proof of his title. If the plaintiff be non-suited for any other cause than non-appearance, the defendant shall have judgment for his costs of suit.

85. Upon a finding for the claimant, judgment may be signed and execution issued for the recovery of possession of the property, or such

part thereof as the jury shall find the claimant entitled to, and for costs as in ordinary cases under this chapter; and upon a finding for the defendants, or any of them, judgment may be signed and execution for costs issued for him or them in like manner.

86. Upon any judgment in ejectment for recovery of possession and costs, there may be either one writ or separate writs of execution for the recovery of possession and for the costs, at the election of the claimant.

87. In case of such an action being brought by some or one of several persons entitled as joint-tenants, tenants in common, or coparceners, any joint-tenant, tenant in common or coparcener in possession may, at the time of appearance, give notice in the same form as in the notice of a limited defence that he or she defends as such, and admits the right of the claimant to an undivided share of the property, and may within the same time file an affidavit, stating, with reasonable certainty, that he or she is such joint-tenant, tenant in common, or coparcener, and the share of such property to which he or she is entitled, and that he or she has not ousted the claimant; and such notice shall be entered in the issue in the same manner as the notice limiting the defence; and upon the trial of such an issue, the additional question as to whether an actual ouster has taken place shall be tried.

88. Upon the trial of such issue as last aforesaid, if it shall be found that the defendant is joint-tenant, tenant in common, or coparcener with the claimant, then the question whether an actual ouster has taken place shall be tried; and unless such actual ouster shall be proved the defendant shall be entitled to judgment and costs; but if it shall be found, either that the defendant is not such joint-tenant, tenant in common, or coparcener, or that an actual ouster has taken place, then the claimant shall be entitled to judgment for the recovery of possession and costs.

89. The death of the claimant or defendant shall not cause the action to abate, but it may be continued as hereinafter mentioned.

90. In case the right of the deceased claimant shall survive to another claimant, a suggestion may be made of the death, which suggestion shall not be traversable, but shall only be subject to be set aside if untrue, and the action may proceed at the suit of the surviving claimant; and if such a suggestion shall be made before the trial, then the claimant shall have a verdict and recover judgment as aforesaid, upon its appearing that he was entitled to bring the action either separately or jointly with the deceased claimant.

91. In case of the death before trial of one of several claimants whose right does not survive to another or others of the claimants, where the legal representative of the deceased claimant shall not become a party to the suit in the manner hereinafter mentioned, a suggestion may be made of the death, which suggestion shall not be traversable, but shall only be subject to be set aside if untrue, and the action may proceed at the suit of the surviving claimant for such share of the property as he is entitled to and costs.

92. In case of a verdict for two or more claimants, if one or more of such claimants die before execution executed, the surviving claimant may, whether the legal right to the property shall survive or not, suggest the death in manner aforesaid, and proceed to judgment and execution for recovery of possession of the entirety of the property and costs; but nothing herein contained shall affect the right of the legal representative of the deceased claimant, or the liability of the surviving claimant to such legal representative; and the entry and possession of such surviving claimant under such execution shall be considered as an entry and possession on behalf of such legal representative in respect of the share of the property to which he shall be entitled as such representative, and the Court or a Judge may direct possession to be delivered accordingly.

93. In case of the death of a sole claimant, or before trial of one of several claimants, whose right does not survive to another or others of the claimants, the legal representative of such claimant may, by leave of the Court or a Judge, enter a suggestion of the death, and that he is such legal representative, and the action shall thereupon proceed; and if such suggestion be made before trial, the truth of the suggestion shall be tried thereat, together with the title of the deceased claimant, and such judgment shall follow upon the verdict in favour of or against the person making such suggestion as hereinbefore provided with reference to a judgment for or against such claimant; and in case such suggestion in the case of a sole claimant be made after a trial and before execution executed by delivery of possession thereupon, and such suggestion be denied by the defendant within eight days after notice thereof, or such further time as the Court or a Judge may allow, then such suggestion shall be tried; and if upon the trial thereof a verdict shall pass for the person making such suggestion, he shall be entitled to such judgment as aforesaid for the recovery of possession, and for the costs of and occasioned by such suggestion; and in case

of a verdict for the defendant, such defendant shall be entitled to judgment as aforesaid for costs.

94. In case of the death before or after judgment of one of several defendants in ejectment, who defend jointly, a suggestion may be made of the death, which suggestion shall not be traversable, but only be subject to be set aside, if untrue, and the action may proceed against the surviving defendant to judgment and execution.

95. In case of the death of a sole defendant, or of all the defendants in ejectment before trial, a suggestion may be made of the death, which suggestion shall not be traversable; but only be subject to be set aside if untrue, and the claimants shall be entitled to judgment for recovery of possession of the property, unless some other person shall appear and defend within the time to be appointed for that purpose by the order of the Court or a Judge to be made upon the application of the claimants; and the Court or a Judge, upon such suggestion being made, and upon such application as aforesaid, may order that the claimant be at liberty to sign judgment within such time as the Court or a Judge may think fit, unless the person then in possession, by himself or his tenant, or the legal representative of the deceased defendant, shall within such time appear and defend the action; and such order may be served in the same manner as the writ; and in case such person shall appear and defend, the same proceedings may be taken against such new defendant as if he had originally appeared and defended the action; and if no appearance be entered and defence made, then the claimant shall be at liberty to sign judgment pursuant to the order.

96. In case of the death of a sole defendant, or of all the defendants in ejectment after verdict, the claimants shall nevertheless be entitled to judgment as if no such death had taken place, and to proceed by execution for recovery of possession without suggestion or revivor, and to proceed for the recovery of costs, in like manner as upon any other judgment for money against the legal representatives of the deceased defendant or defendants.

97. In case of the death before trial of one of several defendants in ejectment, who defends separately for a portion of the property for which the other defendant or defendants do not defend, the same proceedings may be taken as to such portion as in the case of the death of a sole defendant, or the claimants may proceed against the surviving defendants in respect of the portion of the property for which they defend.

98. In case of the death before trial of one of several defendants in

ejectment, who defends separately in respect of property for which surviving defendants also defend, the Court or a Judge may at any time before the trial allow the person at the time of the death in possession of the property, or the legal representative of the deceased defendant, to appear and defend on such terms as may appear reasonable and just, upon the application of such person or representative; and if no such application be made or leave granted, the claimant suggesting the death in manner aforesaid may proceed against the surviving defendant or defendants to judgment and execution.

99. The claimant in ejectment shall be at liberty at any time to discontinue the action as to one or more of the defendants, by giving to the defendant or his attorney a notice headed in the Court and cause, and signed by the claimant or his attorney, stating that he discontinues such action; and thereupon the defendant to whom such notice is given shall be entitled to and may forthwith sign judgment for costs in the form contained in the schedule to this chapter annexed, or to the like effect.

100. In case one of several claimants shall be desirous to discontinue, he may apply to the Court or a Judge to have his name struck out of the proceedings, and an order may be made thereupon upon such terms as to the Court or Judge may seem fit, and the action shall thereupon proceed at the suit of the other claimants.

101. In every action of ejectment the plaintiff may be compelled to proceed to trial, or be subjected to judgment of non-suit by the same means and subject to the same conditions as are prescribed by this chapter in ordinary cases.

102. One or more defendants in ejectment may confess judgment in whole or in part for the land claimed in the action, in like manner as judgment may be confessed in other suits.

103. The effect of a judgment in an action of ejectment under this chapter shall be the same as that of a judgment in an action of ejectment heretofore used.

104. Every tenant to whom any writ in ejectment shall be delivered, or to whose knowledge it shall come, shall forthwith give notice thereof to his landlord, or his bailiff or receiver, under penalty of forfeiting the value of three years improved or rack rent of the premises demised or holden in the possession of such tenant to the person of whom he holds, to be recovered by action in any Court having jurisdiction for the amount.

105. In all cases between landlord and tenant, as often as it shall

happen that one half-year's rent shall be in arrear, and the landlord or lessor to whom the same is due hath right by law to re-enter for the non-payment thereof, such landlord or lessor may without any formal demand or re-entry serve a writ of ejectment for the recovery of the demised premises, or in case the same cannot be legally served, or no tenant be in actual possession of the premises, then such landlord or lessor may affix a copy thereof upon the door of any demised messuage, or in case such action in ejectment shall not be for the recovery of any messuage, then upon some notorious place of the lands, tenements and hereditaments comprised in such writ of ejectment, and such affixing shall be legal service thereof, which service or affixing such writ in ejectment shall stand in the place and stead of a demand and re-entry; and in case of judgment against the defendant for non-appearance, if it be made to appear to the Court by affidavit, or be proved upon the trial in case the defendant appears, that a half-year's rent was due before the writ was served, and that no sufficient distress was to be found on the demised premises, countervailing the arrears then due, and that the lessor had power to re-enter, then and in every such case the lessor shall recover judgment and execution in the same manner as if the rent in arrear had been legally demanded, and a re-entry made; and in case the lessee or his assignee, or other person claiming or deriving under the said lease, shall permit and suffer judgment to be had and recovered on such trial in ejectment, and execution to be executed thereon without paying the rent and arrears together with full costs, and without proceeding for relief in equity within six months after execution executed, then and in such case the said lessee, his assignee, and all other persons claiming and deriving under the said lease, shall be barred and foreclosed from all relief or remedy in law or equity, and such landlord or lessor shall from thenceforth hold the said demised premises discharged from such lease; and if on such ejectment a verdict shall pass for the defendant, or the claimant shall be non-suited therein, then and in every such case such defendant shall recover his costs: Provided that nothing herein contained shall extend to bar the right of any mortgagee of such lease, or any part thereof, who shall not be in possession, so as such mortgagee shall and do within six months after judgment obtained and execution executed, pay all rent in arrear and all costs and damages sustained by such lessor or person entitled to the remainder or reversion as aforesaid, and perform all the covenants and agreements which, on the part and behalf of the first lessee, are or ought to be performed.

106. In case the said lessee, his assignee, or other person claiming any right, title, or interest in law or equity, of, in, or to the said lease, shall within the time aforesaid proceed for relief in any Court of equity, such person shall not have or continue any injunction against the proceedings at law on such ejectment, unless he does or shall within ten days next after a full and perfect answer shall be made by the claimant in such ejectment, bring into Court and lodge with the proper officer, such sum of money as the lessor or landlord shall in his answer swear to be due and in arrear over and above all just allowances, and also the costs taxed in the said suit, there to remain till the hearing of the cause, or to be paid out to the lessor or landlord on good security, subject to the decree of the Court; and in case such proceedings for relief in equity shall be taken within the time aforesaid, and after execution is executed, the lessor or landlord shall be accountable for so much and no more as he shall really and *bona fide*, without fraud, deceit, or wilful neglect, make of the demised premises from the time of his entering into the actual possession thereof; and if what shall be so made by the lessor or landlord happen to be less than the rent reserved on the said lease, then the said lessee or his assignee, before he shall be restored to his possession, shall pay such lessor or landlord what the money so by him made fell short of the reserved rent for the time such lessor or landlord held the said lands.

107. If the tenant or his assignee at any time before the trial in such ejectment pay or tender to the lessor or landlord, his executors or administrators, or his or their attorney in that cause, or pay into Court all the rent and arrears, together with the costs, then and in such case all further proceedings on the ejectment shall cease and be discontinued; and if such lessee, his executors, administrators, or assigns, shall, upon such proceedings as aforesaid, be relieved in equity, he and they shall have, hold, and enjoy the demised lands according to the lease thereof made, without any new lease.

108. Nothing herein contained shall be construed to prejudice or affect any other right of action or remedy which landlords may possess in any of the cases hereinbefore provided for, otherwise than hereinbefore expressly enacted.

109. Where an action of ejectment shall be brought by any mortgagee, his executors, administrators, or assigns, for the recovery of the possession of any mortgaged lands, tenements, or hereditaments, and no suit shall be then depending for or touching the foreclosing or redeeming of such mortgaged lands, tenements, or hereditaments, if the

person having right to redeem such mortgaged lands, tenements, or hereditaments, and who shall appear and become defendant in such action shall at any time pending such action pay unto such mortgagee, or, in case of his refusal to receive the same, shall bring into Court, the principal money and interest due on such mortgage, and all such costs as have been expended in any suit at law or in equity upon such mortgage, such money for principal, interest and costs, to be ascertained and computed by the Court, or by the proper officer thereof to be appointed for that purpose, the money so paid to such mortgagee or brought into Court shall be deemed to be in full satisfaction and discharge of such mortgage, and the Court shall discharge every such mortgagor or defendant of and from the same accordingly; and shall by rule compel such mortgagee, at the costs and charges of such mortgagor, to assign, surrender, or re-convey such mortgaged lands, tenements and hereditaments, and such estate and interest as such mortgagee has therein, and to deliver up all deeds, evidences and writings in his custody relating to the title of such mortgaged lands, tenements, and hereditaments, unto such mortgagor who shall have paid or brought such money into Court, his executors or administrators, or to such other person as he or they shall for that purpose appoint.

110. Nothing herein contained shall extend to any case where the person against whom the redemption is or shall be prayed, shall (by writing under his hand or the hand of his attorney, agent or solicitor, to be delivered, before the money shall be brought into Court, to the attorney or solicitor for the other side) insist either that the party praying a redemption has not a right to redeem, or that the premises are chargeable with other and different sums than what appear on the face of the mortgage, or shall be admitted on the other side; or to any case where the right to redemption to the mortgage lands and premises in question, in any cause or suit, shall be controverted or questioned by or between different defendants in the same cause or suit; or shall be any prejudice to any subsequent mortgage or any subsequent incumbrance.

111. The Supreme Court and the Judges thereof respectively shall exercise over the proceedings the like jurisdiction as heretofore exercised in the action of ejectment, so as to insure a trial of the title, and of actual ouster, when necessary only, and for all other purposes for which such jurisdiction may at present be exercised.

REPLEVIN.

112. The Sheriffs of the several districts of this island, as well as

their sworn bailiffs to be appointed by them at convenient places within their respective districts, and for whom and for whose acts the Sheriffs shall be respectively responsible, are hereby authorised to make replevies and deliverances of distress in manner hereinafter directed; and the said Sheriffs shall from time to time notify and publish in the Newfoundland *Royal Gazette* the names and places of residence of all such sworn bailiffs, who shall have authority to make such replevies and deliverances as aforesaid in the Sheriff's name, and in the same manner as the Sheriff may and ought to do.

113. In all cases of distress for rent and otherwise, the person whose goods shall be distrained, and who shall be desirous of replevying the same or any part thereof, shall enter into a bond with the Sheriff of the district, with one or more sufficient sureties, to the satisfaction of the Sheriff or the bailiff by whom the said bond shall be taken, which bond shall be in the form set forth in the schedule to this chapter annexed; and the penalty of such bond shall be a sum sufficient to cover the value of the cattle or goods distrained, if taken for any other cause than for rent, and if taken for rent then in a sum double the value of the cattle or goods distrained; and upon the execution of such bond the said Sheriff, or such bailiff as aforesaid in the name of the Sheriff, shall forthwith issue his warrant to replevy the cattle or goods so distrained, as aforesaid, which warrant shall be in the form in the schedule to this chapter annexed; and such warrant may be executed at any time before the sale of any such cattle or goods so distrained, as may by law be sold in pursuance of any such distress.

114. The Sheriff or bailiff taking any replevin bond shall, at the request and costs of the avowant or person making recognizance, assign such bond to the avowant or person aforesaid, by endorsing the same and attesting it under his hand and seal, in the presence of two or more credible witnesses, in the form set forth in the schedule to this chapter annexed; and if the bond so taken and assigned be forfeited, the avowant or person making cognizance may bring an action, and recover thereon in his own name; and the Court may, by rule, give such relief to the parties upon such bond as may be agreeable to justice; and such rule shall have the nature and effect of a defeazance of such bond.

115. The party obtaining a replevy of cattle or other goods so to be distrained as aforesaid, shall, on or before the first day of the then next term or sittings of the Court, to be mentioned in such warrant of replevin, or if the Court be sitting, then within four days after the

execution of such warrant of replevin, file in Court, and also serve or cause to be served upon the person avowing or making cognizance, or upon his agent or attorney, a declaration in the usual form in such cases, to which declaration the defendant shall enter an appearance, and shall also plead, avow, or make cognizance thereto, without any demand of plea or rule to plead, within the first four days of the term or sittings of the Court aforesaid, or if such declaration be served in term time, then within four days after service of a copy thereof as aforesaid; and the plaintiff shall, to every such plea, avowry or cognizance, plead or demur within two days after service of a copy thereof, without any demand of plea or rule to plead, unless the Court or a Judge thereof shall in any such case otherwise order, and thereupon subject to the provisions hereinbefore contained, such further and other proceedings shall be had as are now used and practised in cases of replevin: Provided that it shall not be necessary in any case to execute a writ of enquiry of damages before the Sheriff; but all such damages shall be assessed in the usual manner before the Court or a Judge.

116. In all cases of distress for rent, the person making any such distress shall deliver to the person in possession of the premises, for the rent of which such distress shall be made, or in case there shall not be any person found in possession, shall affix upon some conspicuous part of such premises a particular in writing of the rent demanded, specifying the amount thereof, the time when the same accrued, and the person by whom or by whose authority such distress is made.

117. The plaintiff in replevin may, in answer to an avowry, pay money into Court in like manner and subject to the like conditions as to costs and otherwise as upon a payment into Court by a defendant in other actions, and such payment shall not, nor shall any acceptance thereof, work a forfeiture of the replevin bond.

118. This chapter shall extend to all cases in which replevin will lie.

ARBITRATION.

119. If it be made appear at any time after the issuing of the writ, to the satisfaction of the Court or a Judge, upon the application of either party, that the matter in dispute consists wholly or in part of matters of mere account which cannot conveniently be tried in the ordinary way, the Court or Judge may, upon such application, if they or he think fit, decide such matter in a summary manner, or order that such matter either wholly or in part be referred to one or more arbitrators appointed by the parties, or if the parties cannot agree in the

choice of arbitrators, to an officer of the Court, or some other person or persons, upon such terms as to costs and otherwise as the Court or Judge shall think reasonable; and the decision or order of the Court or Judge, or the award or certificate of such referee or referees, shall be enforceable by the same process as the finding of a jury upon the matter referred.

120. If it shall appear to the Court or Judge that the allowance or disallowance of any item in such account depends upon a question of law fit to be decided by the Court, or upon a question of fact fit to be decided by a jury, or by a Judge upon the consent of both parties as hereinbefore provided, the Court or Judge may direct a case to be stated, or an issue or issues to be tried; and the decision of the Court upon such case, and the finding of the jury or Judge upon such issue or issues, shall be taken and acted upon by the arbitrator or officer as conclusive.

121. The arbitrator or officer, upon any compulsory reference under this chapter, or upon any reference by consent of parties, where the submission is or may be made a rule or order of the Court, may if he shall think proper, and if it be not provided to the contrary, state his award as to the whole or any part thereof, in the form of a special case, for the opinion of the Court; and when an action is referred, judgment, if so ordered, may be entered according to the opinion of the Court.

122. If upon the trial of any issue of fact by a Judge under this chapter, it shall appear to the Judge that the questions arising thereon involve matter of account which cannot conveniently be tried before him, he may, at his discretion, order that such matter of account be referred to an arbitrator or arbitrators appointed by the parties, or in the event of their disagreement as aforesaid to an officer of the Court, or some other person or persons, upon such terms as to costs and otherwise as such Judge shall think reasonable, and the award or certificate of such referee shall have the same effect as hereinbefore provided as to the award or certificate of a referee before trial; and the Judge may proceed to try and dispose of any other matter in question not referred in like manner as if no reference had been made.

123. The proceedings upon any such arbitration as aforesaid shall, except otherwise directed hereby or by the submission or document authorizing the reference, be conducted in like manner and subject to the same rules and enactments as to the power of the arbitrator and of the Court, the attendance of witnesses, the production of documents,

enforcing or setting aside the award, and otherwise, as upon a reference made by consent under a rule of Court or Judge's order.

124. In any case where reference shall be made to arbitration as aforesaid, the Court or a Judge may at any time, and from time to time, remit the matters referred, or any or either of them, to reconsideration and re-determination of the said arbitrator, upon such terms as to costs, and otherwise as to the Court or Judge may seem proper.

125. All applications to set aside any award made on a compulsory reference under this chapter, shall be made within seven days after publication of the award to the parties, whether made in vacation or term; and if no such application be made, or if no rule be granted thereon, or if any rule granted thereon be afterwards discharged, such award shall be final between the parties.

126. Whenever the parties to any deed or instrument in writing, or any of them, have agreed or shall agree that any then existing or future differences between them or any of them shall be referred to arbitration, and any one or more of the parties so agreeing, or any person claiming through or under him, shall nevertheless commence an action at law or suit in equity against the other party or parties or any of them, or against any person claiming through or under him or them or any of them, the Court or a Judge may, on application by the defendant or defendants or any of them, upon being satisfied that no sufficient reason exists why such matters cannot be or ought not to be referred to arbitration according to such agreement as aforesaid, and that the defendant was at the time of bringing such action or suit and still is ready and willing to join and concur in all acts necessary and proper for causing such matters so to be decided by arbitration, make a rule or order staying all proceedings in such action or suit, on such terms as to costs and otherwise as to directing a reference as hereinbefore provided, as to the Court or Judge may seem fit: Provided that any rule or order may at any time afterwards be discharged or varied as justice may require.

127. If in any case of arbitration the document authorizing the reference provide that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator; or if any appointed arbitrator refuse to act, or become incapable of acting, or die, and the terms of such document do not show that it was intended that such vacancy should not be supplied, and the parties do not concur in appointing a new one;

or if where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator, such parties or arbitrators do not appoint an umpire or third arbitrator, or if any appointed umpire or arbitrator refuse to act or become incapable of acting, or die, and the terms of the document authorizing the reference do not show that it was intended that such vacancy should not be supplied, and the parties or arbitrators respectively do not appoint a new one, then and in every such instance any party may serve the remaining parties or the arbitrators, as the case may be, with a written notice to appoint an arbitrator, umpire, or third arbitrator, respectively; and if within seven clear days after such notice shall have been served, no arbitrator, umpire, or third arbitrator be appointed, a Judge of the Supreme Court may, upon summons to be taken out by the party having served such notice as aforesaid, appoint an arbitrator, umpire, or third arbitrator, as the case may be; and such arbitrator, umpire, or third arbitrator respectively shall have the like power to act in the reference and make an award as if he had been appointed by consent of all parties.

128. When the reference is or is intended to be to two arbitrators, one appointed by each party, either party, in case of the death, refusal to act, or incapacity of any arbitrator appointed by him may substitute a new arbitrator, unless the document authorising the reference show that it was intended that the vacancy should not be supplied; and if on such a reference one party fail to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party shall have appointed an arbitrator, and shall have served the party so failing to appoint with notice in writing to make the appointment, the party who has appointed an arbitrator may appoint such arbitrator to act as sole arbitrator in the reference, and an award made by him shall be binding on both parties, as if the appointment had been by consent: Provided, however, that the Court or a Judge may revoke such appointment on such terms as shall be deemed just.

129. When the reference is to two arbitrators, and the terms of the document authorizing it do not shew that it was intended that there should not be an umpire, or provide otherwise for the appointment of an umpire, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award, unless they be called upon by notice as aforesaid to make the appointment sooner.

130. The Court or a Judge may, upon sufficient cause, and from time

to time, extend the time for making any award under this chapter, notwithstanding that the time originally fixed may have elapsed.

131. When any award made on any such submission, document or order of reference as aforesaid, directs that possession of any lands or tenements capable of being the subject of an action of ejectment shall be delivered to any party either forthwith or at any future time, or that any such party is entitled to the possession of any such lands or tenements, the Court may order any party to the reference who shall be in possession of any such lands or tenements, or any person in possession of the same claiming under or put in possession by him since the making of the document authorizing the reference, to deliver possession of the same to the party entitled thereto pursuant to the award; and such rule or order to deliver possession shall have the effect of a judgment in ejectment against every such party or person named in it, and execution may issue and possession shall be delivered by the Sheriff, as on a judgment in ejectment.

132. Every agreement or submission to arbitration by consent, whether by deed or instrument in writing not under seal, may be made a rule of Court on the application of any party thereto, unless such agreement or submission contain words purporting that the parties intend that it should not be made a rule of Court.

133. The power and authority of an arbitrator or umpire shall not be revocable by any party to the reference without leave of the Court or a Judge, and the arbitrator or umpire shall and is hereby required to proceed with the reference notwithstanding any such revocation, and to make such award, although the person making such revocation do not afterwards attend the reference.

MANDAMUS.

134. The plaintiff in any action except replevin and ejectment may endorse upon the writ and copy to be served a notice that the plaintiff intends to claim a writ of mandamus, and the plaintiff may thereupon claim in the declaration, either together with any other demand which may now be enforced in such action, or separately, a writ of mandamus commanding the defendant to fulfil any duty in the fulfilment of which the plaintiff is personally interested.

135. The declaration in such action shall set forth sufficient grounds upon which such claim is founded, and shall set forth that the plaintiff is personally interested therein, and that he sustains damage by the non-performance of such duty, and that the performance thereof has been demanded by him, and refused or neglected.

136. The pleadings and other proceedings in any action in which a writ of mandamus is claimed, shall be the same in all respects nearly as may be, and costs shall be recoverable by either party as in an ordinary action for the recovery of damages.

137. In case judgment shall be given for the plaintiff that a mandamus do issue, the Court if it shall see fit may, besides issuing execution in the ordinary way for the costs and damages, also issue a peremptory writ of mandamus to the defendant commanding him forthwith to perform the duty to be enforced.

138. The writ need not recite the declaration or other proceedings, or the matter therein stated, but shall simply command the performance of the duty, and in other respects shall be in the form of an ordinary writ of execution, except that it shall be directed to the party, and not to the Sheriff, and may be issued in term or vacation, and returnable forthwith; and no return thereto, except that of compliance, shall be allowed; but time to return it may, upon sufficient grounds, be allowed by the Court or Judge, either with or without terms.

139. The writ of mandamus so issued as aforesaid shall have the same force and effect as a peremptory writ of mandamus issued out of the Court, and in case of disobedience may be enforced by attachment by the Court, or, when not sitting, by a Judge.

140. The Court may, upon application by the plaintiff, besides or instead of proceedings against the disobedient party by attachment, direct that the act required to be done may be done by the plaintiff or some other person appointed by the Court, at the expense of the defendant; and upon the act being done, the amount of such expense may be ascertained by the Court by reference to a Master; and the Court may order payment of the amount of such expense and costs, and enforce payment thereof by execution.

141. Nothing herein contained shall take away the jurisdiction of the Court to grant writs of mandamus; nor shall any writ of mandamus issued out of the Court be invalid by reason of the right of the prosecutor to proceed by action for mandamus under this chapter.

142. Upon the application by motion for any writ of mandamus in the Court, the rule may in all cases be absolute in the first instance, if the Court shall think fit; and the writ may bear test on the day of its issuing, and be made returnable forthwith, whether in term or in vacation, but time may be allowed to return it by the Court or a Judge, either with or without terms.

INJUNCTION.

143. In all cases of breach of contract or other injury, where the party injured is entitled to maintain and has brought an action, he may, in like manner as hereinbefore provided with respect to mandamus, claim a writ of injunction against the repetition or continuance of such breach of contract or other injury, or the committal of any breach of contract or injury of a like kind arising out of the same contract, or relating to the same property or right; and he may also in the same action include a claim for damages or other redress.

144. The writ of summons in such action shall be in the same form as the writ of summons in any personal action; but on every such writ and copy thereof there shall be endorsed a notice that in default of appearance the plaintiff may, besides proceeding to judgment and execution for damages and costs, apply for and obtain a writ of injunction.

145. The proceedings in such action shall be the same, as nearly as may be, and subject to the like control, as the proceedings in an action to obtain a mandamus under the provisions hereinbefore contained; and in such action judgment may be given that the writ of injunction do or do not issue, as justice may require; and in case of disobedience such writ of injunction may be enforced by attachment by the Court, or, when not sitting, by a Judge.

146. The plaintiff may at any time after the commencement of the action, and whether before or after judgment, apply *ex parte* to the Court or a Judge for a writ of injunction to restrain the defendant in such action from the repetition or continuance of the wrongful act or breach of contract complained of, or the committal of any breach of contract or injury of a like kind arising out of the same contract, or relating to the same property or right; and such writ may be granted or denied by the Court or Judge upon such terms as to the duration of the writ, keeping an account, giving security or otherwise, as to the Court or Judge shall seem reasonable and just; and in case of disobedience, such writ may be enforced by attachment by the Court, or, when not sitting, by a Judge: Provided that any order for a writ of injunction made by a Judge, or any writ issued by virtue thereof, may be discharged or varied or set aside by the Court, on application made thereto by any party dissatisfied with such order.

147. In case any action, suit or proceeding in any Court of law or equity shall be commenced, sued or prosecuted, in disobedience of and contrary to any writ of injunction, rule or order of the said Court; or of

any Judge thereof, in any other Court than that by or in which such injunction may have been issued, or rule or order made, upon the production of such writ of injunction, rule or order, the said other Court (in which such action, suit or proceeding may be commenced, prosecuted or taken) or any Judge thereof, shall stay all further proceedings contrary to any such injunction, rule or order; and thenceforth all further and subsequent proceedings shall be utterly null and void to all intents and purposes: Provided that nothing herein contained shall be held to diminish, alter, abridge or vary the liability of any person commencing, suing or prosecuting any such action, suit, or proceeding, contrary to any injunction, rule or order of the Court to any attachment, punishment, or other proceeding to which any such person is or shall be liable in cases of contempt of Court, in regard to the commencing, suing or prosecuting such action, suit or proceeding.

148. Writs of mandamus and injunction shall, in addition to other matter inserted therein, and unless otherwise ordered by the Court or a Judge, command the defendant to pay the plaintiff the cost thereof, and such payment may be enforced in the same manner as the payment of costs under rule of Court are now enforced.

PARTITION.

149. Where property is held in joint-tenancy, coparcenary or in common, any party wishing a partition thereof may sue out a writ in the form in the schedule to this chapter annexed, against all persons who have a joint possession with them of such property, and refuse to make a fair partition of it.

150. Upon the said writ being duly returned and filed, with an affidavit of the service thereof, and upon default of appearance of the parties to whom it shall be addressed, the Court shall proceed to examine into the demandant's title, and the quantity or proportion of the property to which he is entitled, and accordingly as they shall find the demandant's right and proportion to be, they will for so much give judgment by default, and award a writ to make a partition whereby such part and proportion shall be set out severally, and which writ shall be in the form in the schedule to this chapter annexed.

151. When this writ shall have been executed, after eight days' notice given to the occupier or tenant of the premises, and returned, final judgment will be entered; and the same shall be good and conclude all persons whatsoever, after notice as aforesaid, whatever right or title they have, or may at any time claim to have, in any of the

property mentioned in the said judgment or writ of partition ; unless such tenant or person concerned, or either of them, against whom, or their right and title, such judgment by default is given, shall within the next term of the Court, or in case of infancy *non sanæ memoriæ*, or absence out of this island, within one year after his return, or the termination of such inability, apply to the Court by motion, and shew a good and probable matter in bar to such partition; in which case the Court will set aside such judgment, and the cause shall proceed as if no judgment had been given. But if the Court, upon hearing thereof, shall adjudge for the first demandant, then the said first judgment shall stand confirmed, and shall be good against all persons whatsoever, except such other persons as shall be absent or disabled as aforesaid, and the person so appealing shall be awarded, thereupon to pay costs.

152. Should any person described in the last section, and within the time or times as there stated, come into Court, and, admitting the demandant's title, shew an inequality in the partition, the Court shall award a new partition to be made in the presence of all parties concerned (if they will appear), notwithstanding the return and filing upon the record of the former ; and such second partition shall be good and firm forever, against all persons not labouring under any of the incapacities herein previously mentioned.

153. In the event of the party against whom the writ shall have been issued appearing, he may either confess the action or plead that the demandants do not hold together with him. In the first case, a writ of partition like that before described, with such slight alterations as may be necessary to adapt it to the present purpose, will issue to the Sheriff immediately ; in the second case the truth of the tenant's plea must be tried within a convenient time by a jury ; and if their verdict shall be against him on that point, the demandant will then be entitled to a writ of partition.

154. The foregoing enactments, so far as they apply to the partition of property of infants, or of persons of unsound mind, held in joint tenancy, coparcency or in common, shall be subject to the following provisions, viz. : the Court may, of its own motion, or upon that of any party to a writ of partition, or of a guardian or next friend of an infant, or of the guardian or next friend of a person of unsound mind, direct the guardian or next friend of such infant or person of unsound mind to be made a party to such writ, and in such cases the judgment to be had shall be as final and binding upon such infant or

person of unsound mind, his representatives and estate, as upon other parties to the proceedings. If there be no such guardian existing one may be appointed by the Court, and the provisions of this section shall apply in such cases.

155. The record of partition under a writ of partition shall be registered in the registry of deeds for the district in which the lands are situate.

SUMMARY ACTIONS.

156. All actions, *ex contractu*, where the amount sought to be recovered shall not exceed one hundred dollars, shall be heard and determined in a summary manner, and the finding of the Court shall have the same effect as a verdict by a jury; the writ shall be in the form in the schedule to this chapter annexed, and concurrent alias and pluries writs may issue, and the like security on *capias* and attachment may be given, as in ordinary cases. In pleading it shall be sufficient for the party pleading to file a notice of his pleading by the usual and known title thereof in practice, or by a short statement of its effect, with a copy of set-off, if any; it shall not be necessary to file any roll, but the trial shall be had upon the papers filed in Court. Judgment by default, where the demand is for a specific debt, shall be final as in other cases, and may be signed by a memorandum on the writ, without roll, by the Clerk; and where a trial or an assessment is had, it shall be sufficient to enter a memorandum of the judgment in the record book and on the writ: Provided that in cases where the amount sought to be recovered shall exceed fifty dollars, either party may have a jury for the trial of the cause; but in such case he shall not be entitled to the costs thereof unless the Court shall so order.

MISCELLANEOUS.

157. The Court or a Judge may, if they or he see fit so to do, upon the application of the plaintiff in any action for the detention of any chattel, order that execution shall issue for the return of the chattel detained, without giving the defendant the option of retaining such chattel upon paying the value assessed; and that if the said chattel cannot be found, and unless the Court or a Judge should otherwise order, the Sheriff shall distrain the defendant by his lands and chattels in the said Sheriff's bailiwick, till the defendant render such chattel, or, at the option of the plaintiff, that he cause to be made of the defendant's goods the assessed value of such chattel: Provided that the plaintiff shall, either by the same or a separate writ of execution, be

entitled to have made of the defendant's goods the damages and costs in such action.

158. In all actions and suits for breach of contract to deliver specific goods for a price in money, on the application of the plaintiff, and by leave of the Judge before whom the cause is tried, the jury shall, if they find the plaintiff entitled to recover, find by their verdict what are the goods in respect to the non-delivery of which the plaintiff is entitled to recover, and which remain undelivered; what (if any) is the sum the plaintiff would have been liable to pay for the delivery thereof; what damages (if any) the plaintiff would have sustained if the goods should be delivered under execution, as hereinafter mentioned; and what damages, if not so delivered. And thereupon, if judgment shall be given for the plaintiff, the Court or any Judge thereof, at their or his discretion, on the application of the plaintiff, may order execution to issue for the delivery, on payment of such sum (if any) as shall have been found to be payable by the plaintiff as aforesaid, of the said goods, without giving the defendant the option of retaining the same, upon paying the damage assessed; and such writ of execution may be for the delivery of the said goods; and if such goods so ordered to be delivered, or any part thereof, cannot be found, and unless the Court or Judge aforesaid shall otherwise order, the Sheriff or other officer of the Court shall distrain the defendant, by his lands and chattels in the said Sheriff's bailiwick, or within the jurisdiction of the Court, until the defendant deliver such goods, or, at the option of the plaintiff, cause to be made of the defendant's goods the assessed value or damages or due proportion thereof: Provided that the plaintiff shall, either by the same or separate writs of execution, be entitled to have made of the defendant's goods, the damages, costs, and interest in such action or suit: And also, that this section shall not affect the provisions of chapter one hundred and nine of these consolidated statutes, entitled "Of Masters and Servants."

159. Upon motions founded upon affidavit either party may, with leave of the Court or a Judge, make affidavits in answer to the affidavits of the opposite party, upon any new matter arising out of such affidavits, subject to all such rules as shall hereafter be made respecting such affidavits.

160. The Court or Judge at the trial of any cause where they or he may deem it right for the purposes of justice, may order an adjournment for such time and subject to such terms and conditions as to costs and otherwise as they or he may think fit.

161. Where both parties agree, or where the defendant not appearing at the trial, the plaintiff is willing and the Court shall not otherwise order, the Court or a Judge thereof may try any issue or assess the damages upon any default; and the finding of such Court or Judge shall have the same effect, and judgment shall be entered thereon, as in cases of verdict by a jury.

162. Upon any motion made in arrest of judgment, or to enter an arrest of judgment, or for judgment *non obstante veredicto* by reason of the non-avertment of some alleged material fact, or material allegation or other cause, the party whose pleading is alleged or adjudged to be therein defective, may, by leave of the Court, suggest the existence of the omitted fact, or other matter, which, if true, would remedy the alleged defect; and such suggestion may be pleaded to by the opposite party within four days after notice thereof, or such further time as the Court or a Judge may allow; and the proceedings for trial of any issues joined upon such pleadings shall be the same as in an ordinary action.

163. If the fact suggested be admitted, or found to be true, the party suggesting shall be entitled to such judgment as he would be entitled to if such fact or allegation had been originally stated in such pleading, and proved or admitted on the trial, together with the costs of, and occasioned by, the suggestion and proceedings thereon; but if such fact be found untrue, the opposite party shall be entitled to his costs of and occasioned by the suggestion and proceedings thereon, in addition to any other costs to which he may be entitled.

164. In an action founded upon a bill of exchange or other negotiable instrument the Court or a Judge may order that the loss of such instrument shall not be set up as a defence: Provided an indemnity is given to the satisfaction of the Court or Judge or a Master against the claims of any other person under such negotiable instrument.

165. Proceedings against executors upon a judgment of assets *in futuro* may be had and taken by revivor in the manner hereinbefore provided by this chapter.

166. In the computation of time under this chapter, the period within which any act is to be done is to be calculated one day exclusive and the other inclusive, unless the first or last day shall be Sunday, Good Friday, Christmas day, New Year's day, or the Queen's birth day, which are to be in such cases excluded from the computation.

167. The Court or a Judge thereof may at all times amend all defects and errors in any proceedings under the provisions of this chapter, whether there is anything in writing to amend by or not, and whether the defect or error be that of the party applying to amend or not; and all such amendments may be made with or without costs, and upon such terms as to the Court or Judge may seem fit; and all such amendments as may be necessary for the purpose of determining in the existing suit the real question in controversy between the parties, shall be so made if duly applied for.

168. The Supreme Court may make all such general rules and orders, and frame such writs and forms of proceeding for the effectual execution of this chapter, and of the intention and object thereof, as in their judgment shall be necessary and proper; and all such rules, orders, writs and proceedings shall be acted upon and enforced in the same manner as rules, orders, writs and proceedings of the said Court are now acted upon and enforced, or as near thereto as circumstances will permit: Provided that all rules and orders hereafter to be made shall be published in the *Royal Gazette* for one month before the same shall operate and take effect, and in cases not provided for in this chapter, or by the rules made thereunder, the practice of the Court of Queen's Bench in England shall, so far as the same is applicable, be the practice of the said Court.

SCHEDULE OF FORMS.

No. 1.

WRIT OF SUMMONS WHERE THE DEFENDANT RESIDES WITHIN THE COLONY.

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To C. D. of yeoman, &c.

We command you that within four (or eight) days after service of this writ and declaration upon you, you do appear and plead in our Supreme Court in an action at the suit of A. B.; and take notice that in default of your so doing the said A. B. may proceed to judgment and execution.

Witness, &c.

E. F., plaintiff's attorney, or plaintiff in person (address.)

Memorandum, No. 1.

This writ is to be served within six calendar months from the date thereof.

Memorandum, No. 2.

This writ was served by X. Y. on C. D., the defendant, on the
day of A. D. 18 .

(Signed) X. Y.

Special Endorsement, No. 3.

The following are the particulars of the plaintiff's claim :

1863. June 20—To half-year's rent to date \$30

Or.

By cash paid 10

Balance due..... \$20

N. B.—Take notice that if a defendant served with this writ do not appear and plead according to the exigency thereof, the plaintiff will be at liberty to sign final judgment for any sum not exceeding the amount above claimed, and the sum of dollars for costs, and to issue execution thereon, after the expiration of two days from signing judgment.

No. 2.

WRIT OF ATTACHMENT WHERE THE DEFENDANT RESIDES WITHIN THE COLONY.

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To G. H., Sheriff of the district of Newfoundland and his deputies, greeting :

We command you to attach C. D., of , by his lands and chattels, goods, debts and effects, that he do within four (or eight) days after service of this writ and declaration, appear and plead in our Supreme Court, in an action at the suit of A. B.; and notice is hereby given that in default of the said C. D.'s so doing, the said A. B. may proceed to judgment and execution.

Witness, &c.

A. B., plaintiff's attorney, or plaintiff in person (address.)

And in addition to the memoranda and other endorsements in form No. 1, the writ of attachment shall be endorsed as follows :

“By oath for dollars (or, by order of Mr. Justice
and by oath for dollars) as the case may be.

No. 3.

WRIT OF CAPIAS WHERE DEFENDANT RESIDES WITHIN THE COLONY.

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To G. H., Sheriff of the district of Newfoundland and his deputies, greeting :

We command you that you take C. D., of , and him safely keep, so that he do within four (or eight) days after service of this writ and declaration, appear and plead in our Supreme Court in an action at the suit of A. B.; and notice is hereby given that in default of the said C. D.'s so doing, the said A. B. may proceed to judgment and execution.

Witness, &c.

A. B., plaintiff's attorney, or plaintiff in person (address.)

And in addition to the memoranda and other endorsements in form No. 1, the writ of capias shall be endorsed as follows :

By oath for dollars (or by order of Mr. Justice
and by oath for dollars) as the case may be.

No. 4.

WRIT WHEN DEFENDANT OUT OF THE JURISDICTION.

The form of writ where the defendant resides out of the jurisdiction may be the same as in other cases of summons, capias or attachment respectively, but the number of days for appearance must be made with reference to the distance the defendant may be from Newfoundland, and the words "by leave of the Court or a Judge," must be inserted in the notice of proceeding after the word "may;" also the following notice must be endorsed on the writ, in addition to all other endorsements :

To C. D., late of , &c., now residing at &c.

Take notice that A. B., of , &c., has commenced an action at law against you in her Majesty's Supreme Court of Newfoundland by a writ, copy whereof is within written, and you are required within days after receipt of this notice to appear and plead to the said action, otherwise the said A. B., may, by leave of the Court, proceed thereon to judgment and execution.

(Signed,)

A. B.,
Attorney for plaintiff,
or plaintiff in person (address.)

No. 5.

FORM OF SUMMARY WRIT.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To A. B., of greeting :

We command you that within four [or eight] days after the service of this writ upon you, you do appear and plead in our Supreme Court to an action at the suit of C. D., who claims from you for

the matters contained in the annexed particulars; and in default of your so doing the plaintiff may proceed to judgment and execution.

Witness, &c.

A. B., plaintiff's attorney, or plaintiff in person (address.)

A summary writ of attachment or capias may be framed in accordance with the preceding form. And all such writs must contain the usual endorsements.

No. 6.

JUDGMENT BY DEFAULT.

In the Supreme Court

On the day of 18

(Day of signing final judgment.)

ST. JOHN'S, }
to wit: }

A. B., in his own person (or by J. B., his attorney), sued out a writ of against C. D., endorsed according to the prescribed form as follows:

(Here copy special endorsement.)

And the said C. D. has not appeared and pleaded as by law required; therefore it is considered that the said A. B. recover against the said C. D. \$ together with \$, for costs of suit.

By the Court.

(Signed)

M. W. W., C. C. & R.

No. 7.

INTERLOCUTORY JUDGMENT BY DEFAULT.

A. B. }
vs. }
C. D. }

In the Supreme Court

The day of A. D., 18

(Day of signing judgment.)

Judgment by default for want of appearance and plea to an action commenced by writ of issued on the day of A. D., 18 By the Court,

(Signed)

M. W. W., C. C. & Reg.

No. 8.

DEFAULT ROLL AND JUDGMENT.

In the Supreme Court,

The day of A. D. 18

The Venue.—A. B. by P. A. his attorney (or in person as the case

may be, as in the declaration) sues C. D. who has been (summoned or attached, as the case may be) to answer the said A. B. by virtue of a writ issued on the day of A. D., 18 , out of her Majesty's Supreme Court for, &c., (copy the declaration from these words to the end, and proceed,) and the defendant has not appeared and pleaded as by law required, but because it is unknown to the Court what damages the plaintiff hath sustained in this behalf therefore, let a jury come, &c.

Postea.—Afterwards on, &c., a jury duly empannelled say upon their oath that, &c. Therefore, &c., (where damages are assessed by the Court or Judge, this form may be altered to meet that fact.)

No. 9.

ORDER THAT QUESTION BE TRIED BY A JURY.

In the Supreme Court

The day of A. D., 18

St. JOHN'S, }
to wit: }

Whereas A. B. has sued C. D. :

(Here state the question or questions of fact to be tried.)

And it has been ordered by the honourable Mr. Justice that the said question shall be tried by a jury ; therefore let the same be tried accordingly.

No. 10.

SPECIAL CASE FOR THE OPINION OF THE COURT.

In the Supreme Court

Between { A. B., plaintiff,
 and
 C. D., defendant.

The following case is stated for the opinion of the Court, under a rule of the Court, (or order of the honorable Mr. Justice), dated the day of 18 .

(Here state the material facts of the case bearing upon the question of law to be decided.)

The question or questions for the opinion of the Court is, or are,—

First, whether, &c.

Second, whether, &c.

Judgment for the Plaintiff on a Special Case.

(Copy the special case, and then proceed thus—)

Afterwards on come the parties aforesaid by their respective

attorneys aforesaid, and the Court is of opinion that, &c. (state the opinion of the Court on the question or questions stated in the case.) Therefore, it is considered that the plaintiff do recover against the defendant the said \$, and \$ for his costs of suit.

By the Court,

(Signed)

M. W. W., *C. C. & R.*

No. 11.

FORM OF RULE OR SUMMONS WHERE A JUDGMENT CREDITOR APPLIES FOR EXECUTION AGAINST A JUDGMENT DEBTOR.

(Formal parts as above.)

C. D., shew cause why A. B. (or as the case may be) should not be at liberty to enter a suggestion upon the roll in an action wherein the said A. B. was plaintiff, and the said C. D. was defendant; and wherein the said A. B. obtained judgment for dollars against the said C. D. on the day of , that it manifestly appears to the Court that the said A. B. is entitled to have execution of the said judgment, and to issue execution thereupon, and why the said C. D. should not pay to the said A. B. the costs of this application to be taxed.

(Note.—The above form may be modified so as to meet the case of an application by or against the representative of a party to a judgment.)

No. 12.

FORM OF SUGGESTION THAT THE JUDGMENT CREDITOR IS ENTITLED TO EXECUTION AGAINST THE JUDGMENT DEBTOR.

And now on the day of , it is suggested and manifestly appears to the Court that the said A. B., (or C. D., as executor of the last will and testament of the said A. B., deceased, or as the case may be,) is entitled to have execution of the judgment aforesaid against the said E. F. (or against G. H., as executor of the last will and testament of the said E. F., or as the case may be); therefore it is considered by the Court that the said A. B., (or C. D., as such executor as aforesaid, or as the case may be,) ought to have execution of the said judgment against the said E. F., (or against G. H., as such executor as aforesaid, or as the case may be.)

No. 13.

FORM OF WRIT OF REVIVOR.

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To E. F., of

greeting :

We command you that within four days (or eight) after the service of this writ upon you, inclusive of the day of such service, you appear in our Supreme Court to shew cause why A. B. (or C. D., as executor of the last will and testament of the said A. B., deceased, or as the case may be,) should not have execution against you, (if against a representative, here insert as executor of the last will and testament of the said A. B. (or as the case may be,) of a judgment whereby recovered against you, (or as the case may be,) dollars ; and take notice that in default of your so doing, the said A. B. (or as the case may be) may proceed to execution.

Witness, &c.

G. H., plaintiff's attorney, or plaintiff in person (address.)

No. 14.

EJECTMENT—FORM OF WRIT.

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To X. Y. Z., and all persons entitled to defend the possession of (describe the property with reasonable certainty), in the district of , to the possession whereof A. B. and C. D., or some one of them, claim to be (or to have been since the day of A. D., 18) entitled, and to eject all other persons therefrom ; these are to will and command you, or such of you as deny the alleged title, within four (or fourteen) days after service hereof, to appear in our Supreme Court to defend the said property, or such part thereof as you may be advised ; and in default thereof judgment may be signed, and you turned out of possession.

Witness, &c.

A. B., plaintiff's attorney, or plaintiff in person (address.)

No. 15.

JUDGMENT IN EJECTMENT IN CASE OF NON-APPEARANCE.

In the Supreme Court

The

day of

A. D. 18

(Date of the Writ.)

ST. JOHN'S, }
to wit: }

On the day and year above written, a writ of our Lady the Queen issued forth of this Court in these words, that is to say :

Victoria, by the Grace of GOD, (here copy the writ) ; and no appearance has been entered or defence made to the said writ ; therefore it

is considered that the said (here insert the names of the persons in whom title is alleged in the said writ) do recover possession of the land in the said writ mentioned, with the appurtenances.

No. 16.

JUDGMENT WHERE APPEARANCE IS CONFINED TO PART.

In the Supreme Court

The day of

A. D. 18

ST. JOHN'S, }
to wit: }

On the day and year above written, a writ of our Lady the Queen issued forth of this Court in these words, that is to say :

Victoria, by the Grace of GOD, (here copy the writ) ; and C. D. has on the day of appeared by his attorney (or in person) to the said writ, and has defended for a part of the land in the said writ mentioned,—that is to say (here state the part) ; and no appearance has been entered or defence made to the writ, except as to the said part ; therefore it is considered that the said A. B. (the claimant) do recover possession of the land in the said writ mentioned, except the said part, with the appurtenances, and that he have execution thereof forthwith ; and as to the rest, let a jury come, &c.

No. 17.

ISSUE IN EJECTMENT.

In the Supreme Court

On the day of

A. D., 18

ST. JOHN'S, }
to wit: }

On the day and year above written, a writ of our Lady the Queen issued forth of this Court in these words, that is to say :

Victoria, by the Grace of GOD, (here copy the writ) ; and C. D. has on the day of appeared by his attorney, (or in person,) to the said writ, and defended for the whole of the land therein mentioned ; therefore let a jury come, &c.

No. 18.

POSTEA.

Afterwards on the day of A. D., 18 , before our Supreme Court come the parties within mentioned, and a jury being sworn to try the matter in question between the said parties, upon their oath say, that A. B. (the claimant within mentioned) on the day of A. D., , was and still is

entitled to the possession of the land within mentioned, as in the writ alleged; therefore, &c.

No. 19.

DISCONTINUANCE.

In the Supreme Court,
On the day of A. D., 18
(Date of writ.)

ST. JOHN'S, }
to wit: }

On the day and year above written, a writ of our Lady the Queen issued forth of this Court in these words, that is to say:

Victoria by the Grace of GOD, (here copy the writ); and C. D. has on the day of A. D., 18 , appeared by his attorney, (or in person,) to the said writ, and A. B. has discontinued the action; therefore it is considered that the said C. D. be acquitted, and that he recover against the said A. B. dollars, for his costs of defence.

By the Court,
(Signed) M. W. W., *C. C. & Reg.*

No. 20.

NONSUIT.

In the Supreme Court
On the day of A. D., 18
(Date of writ.)

ST. JOHN'S, }
to wit: }

On the day and year above written, a writ of our Lady the Queen issued forth of this Court in these words, that is to say:

Victoria, by the Grace of GOD, (here copy the writ); and C. D. has on the day of A. D. 18 , appeared by his attorney, (or in person,) to the said writ, and A. B. has failed to proceed to trial, although duly required so to do; therefore it is considered that the said C. D. be acquitted, and that he recover against the said A. B. dollars for his costs of defence.

By the Court,
(Signed) M. W. W., *C. C. & Reg.*

No. 21.

JUDGMENT ON CONFESSION FOR PART.

In the Supreme Court
The day of A. D., 18

(Date of writ.)

ST. JOHN'S, }
to wit: }

On the day and year above written, a writ of our Lady the Queen issued forth of this Court in these words, that is to say :

Victoria, by the Grace of GOD, (here copy the writ) ; and C. D. has on the day of A. D., 18 , appeared by his attorney, (or in person,) to the said writ, and the said C. D. has confessed the said action (or has confessed the said action as to part of the said land, that is to say :—here state part) ; therefore it is considered that the said A. B. do recover possession of the said land in the said writ mentioned (or of the said part of the said land) with the appurtenances, and dollars, for costs.

By the Court.

(Signed) M. W. W., *C. C. & R.*

WRITS OF EXECUTION.

No. 22.

FIERI FACIAS ON JUDGMENT.

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To the Sheriff of the district of Newfoundland and his deputies, greeting :

We command you that of the goods and chattels, lands and tenements of C. D., in your bailiwick, you cause to be made which A. B. lately in our Supreme Court recovered against him, whereof the said C. D. is convicted : and have that money before us in our said Court immediately after the execution of this writ, to be rendered to the said A. B., and have you then there this writ.

Witness, &c.

No. 23.

WRIT OF CAPIAS AD SATISFACIENDUM.

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To the Sheriff of the district of Newfoundland and his deputies, greeting :

We command you that you take C. D., if to be found within your bailiwick, and him safely keep, so that you have his body before us in our Supreme Court immediately after the execution thereof, to satisfy A. B. , which the said A. B. lately in our said

Witness, &c.

WRIT OF HABERE FACIAS POSSESSIONEM.

To the Sheriff of the district of Newfoundland and his deputies, greeting :

Whereas A. B., lately in our Supreme Court, by judgment of the said Court, recovered possession of _____ (here describe the property as in the writ of ejectment, or, if part only of the land has been recovered, describe such part as in the judgment) with the appurtenances, in your bailiwick; therefore we command you that you enter the same, and without delay you cause the said A. B. to have possession of the said land and premises with the appurtenances; and in what manner you shall have executed this our writ make appear to our Court immediately after the execution hereof, and have you then there this writ.

Witness, &c.

WRIT OF HABERE FACIAS AND FIERI FACIAS FOR COSTS UPON A JUDG-
MENT FOR PLAINTIFF IN EJECTMENT, WHERE DEFENDANT HAS
APPEARED.

To the Sheriff of the district of Newfoundland and his deputies, greeting :

Whereas A. B., lately in our Supreme Court, recovered possession of (here describe the property as in the writ of ejectment, or if part only of the land has been recovered, describe such part as in the judgment,) with the appurtenances, in your bailiwick, in an action of ejectment at the suit of the said A. B. against C. D.; therefore we command you that without delay you cause the said A. B. to have possession of the said land and premises with the appurtenances; and we also command you that of the goods and chattels of the said C. D. in your bailiwick, you cause to be made dollars, which the said A. B., lately in our said Court, recovered against the said C. D. for the said A. B.'s costs of the said suit, whereof the said C. D. is convicted, and have that money in our said Court immediately after the execution hereof, to be rendered to the said A. B.; and in what manner you shall have executed this our writ, make appear to our said

Court immediately after the execution hereof, and have you then there this writ.

Witness, &c.

No. 26.

WRIT OF FIERI FACIAS FOR COSTS IN EJECTMENT.

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To the Sheriff of the district of Newfoundland and his deputies, greeting :

We command you that of the goods and chattels of C. D. in your bailiwick, you cause to be made dollars, which A. B., lately in our Supreme Court, recovered against him for the said A. B.'s costs of suit in an action of ejectment by the said A. B. against the said C. D. in that Court, whereof the said C. D. is convicted ; and have that money in our said Court immediately after the execution hereof, to be rendered to the said A. B., and have you then there this writ.

Witness, &c.

(Other writs of execution may be prepared according to the above forms, with the necessary variations.)

No. 27.

FORM OF BOND TO THE SHERIFF IN CASES OF ATTACHMENT.

Know all men by these presents, that we, A. B., of C. D., of , and E. F., of , are severally held and firmly bound unto the Sheriff of the district of Newfoundland, in the penal sum of (double the amount sworn to) each, to be paid to the said Sheriff, his successors, and assigns ; and for which payment well and truly to be made we severally bind ourselves, our executors and administrators, by these presents. Sealed with our seals, and dated at this day of A. D.

Whereas the said A. B. has been attached at the suit of G. H., for the sum of (the amount sworn to), and is desirous of giving security, pursuant to the statute for release from such attachment :

Now, the condition of this obligation is such, that if the said A. B., his executors or administrators, do and shall well and truly pay, or cause to be paid, to the said G. H., his executors, administrators, or assigns, upon demand, the said sum of , or the amount of any judgment, if it be less than the said sum, that may be recovered by the said G. H. against the said A. B., in the said suit, and in default thereof restore to the said Sheriff the property mentioned in the schedule annexed, and attached in this suit, in the like order and condition in which the same now is, then this obligation to be void, otherwise to be and remain in full force and virtue. —

No. 28.

FORM OF BOND TO THE SHERIFF IN CASES OF CAPIAS.

Know all men by these presents, that we, A. B., of C. D., of _____, and E. F., of _____ are severally held and firmly bound unto the Sheriff of the _____ district of Newfoundland, in the penal sum of (double the amount sworn to) each, to be paid to the said Sheriff, his successors and assigns, and for which payment well and truly to be made, we severally bind ourselves, our executors, and administrators, by these presents. Sealed with our seals, and dated at this _____ day of _____ A. D.

Whereas the said A. B. has been arrested at the suit of G. H. for the sum of (the amount sworn to) and is desirous of giving security, pursuant to the statute for the release of such arrest: Now the condition of this obligation is such, that if the said sureties do and shall within fourteen days hereafter justify themselves as sufficient bail in this cause, pursuant to the statute in such case provided, or render the said A. B. to the custody of the said Sheriff, to abide the judgment of the Court in this cause, and if, within four days after a *capias ad satisfaciendum* shall have issued against the said A. B., in this cause, the said A. B. shall render himself to the Sheriff thereon, or shall pay the amount of the judgment therein, with costs of execution, then this obligation to be void, but otherwise to be and remain in full force and virtue.

No. 29.

WRIT OF EXECUTION IN DETINUE.

(For the return of a chattel detained, and for a distringas until returned, separate from a writ of damages or costs.)

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To the Sheriff of the _____ district of Newfoundland and his deputies, greeting:

We command you that without delay you cause the following chattels,—that is to say, (here enumerate the chattels recovered by the judgment for the return of which execution has been ordered to issue,) to be returned to A. B., which the said A. B., lately in our Supreme Court, recovered against C. D., in an action for the detention of the same, whereof the said C. D. is convicted; * and we further command you that if the said chattels cannot be found in your bailiwick you distrain the said C. D. by all his lands and chattels in your bailiwick, so that neither the said C. D., nor any one for him, do lay hands on the same until the said C. D. render to the said A. B. the said chattels; and in what manner you shall have executed this our writ make appear to our said Court immediately after the execution thereof, and have you then there this writ.

Witness, &c.

No. 30.

THE LIKE, WITH LEVY.

The like : but instead of a distress until the chattel is returned, commanding the Sheriff to levy on the defendant's goods the assessed value of it.

(Proceed as in the preceding form to the *, and then thus) :—And we further command you that if the said chattels cannot be found in your bailiwick, of the goods and chattels of the said C. D. in your bailiwick you cause to be made dollars, (the assessed value of the chattels) whereof the said C. D. is also convicted, and have that money in our said Court to be rendered to the said A. B. immediately after the execution hereof; and in what manner, &c.

No. 31.

ENDORSEMENT ON WRIT OF SUMMONS OF CLAIM FOR A WRIT OF INJUNCTION.

The plaintiff intends to claim a writ of injunction to restrain the defendant from (here state concisely for what the writ of injunction is required,—as for example, thus,—felling or cutting down any timber in and upon the said land and premises); and take notice that in default of the defendant's entering an appearance and plea, as within commanded, the plaintiff may, besides proceeding to judgment and execution for damages and costs, apply for and obtain such writ.

No. 32.

JUDGMENT FOR PLAINTIFF AFTER VERDICT THAT A MANDAMUS DO ISSUE.

(The same as in the ordinary form of an entry of a judgment to the end of the postea, and then thus) :—Therefore it is considered that a writ of mandamus do issue commanding the defendant to—(here state the duty to be performed, or the thing to be done, as claimed by the declaration); and it is also considered that the plaintiff do recover of the defendant the said moneys by the jury aforesaid, in form aforesaid, above assessed, and also dollars for his costs of suit in this behalf.

No. 33.

REPLEVIN BOND.

Know all men by these presents, that we, A. B., of , G. A., of , and T. R., of , are jointly and severally held and firmly bound to G. H., Esquire, Sheriff of the district, in the sum of dollars (a sufficient sum to cover the value of the cattle or goods distrained, if taken damage feasant, or if for rent then double the value of the cattle or goods taken), to be paid to the Sheriff or his certain attorney, executors, administrators

or assigns; for which payment to be well and truly made, we bind ourselves and each and every of us, and our and each and every of our executors and administrators, firmly by these presents. Sealed with our seals. Dated this day of A. D.

The condition of this obligation is such, that if the above bounden A. B. do appear at the next term or sittings of the Court which shall next sit within the district to be holden at for the said district (or if it be in term time, then say, "in this present term of the Court at ,")—and do then and there prosecute his suit with effect and without delay against C. D. for the taking and unjustly detaining of his cattle, goods and chattels, to wit, (state the cattle or goods distrained,) and do make return of the said cattle, goods and chattels, if a return thereof shall be adjudged, then this present obligation shall be void and of none effect, or else to be and remain in full force and virtue.

A. B. (L. S.)

G. A. (L. S.)

T. R. (L. S.)

Assignment of Replevin Bond to be Endorsed on Bond.

Know all men by these presents, that I, G. H., Esquire, Sheriff of the district of Newfoundland, have, at the request of the above named C. D., the avowant (or person making cognizance), assigned over to him, the said C. D., this replevin bond, according to the statute in such case made and provided.

Dated, &c.

G. H.

No. 34.

WARRANT OF REPLEVIN.

District, }
to wit: }

G. H., Esquire, Sheriff of the district of Newfoundland,
to and and to every of them, jointly and severally,
greeting:

Whereas A. B. hath found me sufficient security, as well for prosecuting his suit with effect against C. D. for taking and unjustly detaining his cattle, goods and chattels, to wit (set out the cattle or goods,) which the said C. D. hath taken and unjustly detains, as it is said: therefore, on behalf of the said A. B., I command you, jointly and severally, that without delay, you replevy and cause to be delivered to the said A. B., his said cattle, goods and chattels, and that you immediately summon C. D. to appear at the next term of the Supreme Court to be holden at in and for the said district (or as the case may be) to answer this A. B. in the plea aforesaid; and in what

manner you shall have executed the said precept certify to me at the time and place aforesaid, under the peril attending the neglect thereof.

Given under my seal this }
day of A. D., 18 }

G. H., *Sheriff*, (L. S.)

(Or if granted by a bailiff, say L. H., one of the bailiffs of the said Sheriff, according to the form of the statute.)

No. 35.

FORM OF SUMMONS IN CASES OF PARTITION.

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To the Sheriff of _____ and his deputies, greeting :

Command E. F. to appear in our Supreme Court on the
day of to shew wherefore he denieth partition to be made
between him and A. B. and C. D., of (here state the
nature of the property, with such a description of it as would be ne-
cessary in a conveyance,) which he holds together with the said A. B.
and C. D., as they say; and you are commanded to make return of
what you shall do upon this writ at the time and place above men-
tioned.

Witness, &c.

E. F., plaintiff's attorney, or plaintiff in person (address.)

No. 36.

FORM OF WRIT OF PARTITION.

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To the Sheriff of the district and his deputies,
greeting:

Whereas E. F., late of _____ was commanded to be in our Supreme Court to answer A. B. and C. D. of a plea, whereupon the said A. B. and C. D., and the said E. F., held together an undivided (state the property in the same manner as in the original writ), and the said E. F. denied partition thereof to be made between them, and permitted not the same to be done, as they said; and the said E. F. not appearing in our said Court according to the command of our said writ, our said Court did proceed to examine the title of the said A. B. and C. D., whereupon it was considered in our said Court that partition should be made between them of the messuages, lands and tenements aforesaid, with the appurtenances; therefore we command you, that taking with you twelve free and lawful men of the neighbourhood of _____ aforesaid, by whom the truth of these matters may be better known, in your proper person you go to the messuages,

lands and tenements aforesaid, with the appurtenances, and there in the presence of the parties aforesaid, by you to be forewarned, if they shall be willing to be present, the same messuages, lands and tenements aforesaid with the appurtenances, by the oath of the said twelve free and lawful men, respect being had to the true value of the messuages, lands and tenements aforesaid, with the appurtenances, you cause to be divided into equal parts, and parts of these to be delivered and assigned to the said A. B. and C. D., and the other part thereof to the said E. F., to be holden to them and their assigns in severalty, so that neither the said A. B. and C. D. and the said E. F. may have more of the messuages, lands and tenements aforesaid, with the appurtenances, than it belongs to them to have, and that the said A. B. and C. D. of their part to them belonging, and the said E. F. of his part to him belonging, may severally apportion themselves; and that that partition by you so distinctly and openly made, you have here on _____ under your seal, and the seals of those by whose oath you shall have made that partition; and have you then the names of those by whose oath you shall have made the same partition, and this writ.

Witness, &c.

CHAPTER 21.

PRACTICE ON THE COMMON LAW SIDE OF THE SUPREME COURT ON CIRCUIT.

SECTION

- 1—Proceedings to be summary, and commenced by writ of summons, attachment, or *capias ad respondendum*. Form, date and teste.
- 2—Writs to have a notice of cause of action. All causes to be heard and determined in a summary manner.
- 3—Writs returnable on any day in term, and causes to be tried on day of return.
- 4—Bail to be put in within twenty-four hours after return of writ.
- 5—Default, in cases of, plaintiff need not enter appearance for defendant.
- 6—When party in default has not had suffi-

SECTION

- cient time to appear, trial of cause may be postponed.
- 7—When execution to issue.
- 8—Mode of proceedings in cases of ejectment.
- 9—Person not named may appear and defend.
- 10—Plaintiff may recover mesne profits.
- 11—Writ of possession.
- 12—Court on circuit may commit to any gaol within the colony.
- 13—In matters not provided for, practice of Supreme Court in St. John's to apply. Judges may make rules. Costs. Schedule of forms.

1. The proceedings, forms of process and pleadings, on the common law side of the Supreme Court on circuit, shall be summary, and commenced by writ of summons, attachment, or *capias ad respondendum*, without making any distinction as to the form of action; which

writ of summons and attachment shall be according to the form (*mutatis mutandis*) set forth in the schedule to this chapter marked A, and the said writ of *capias ad respondendum* shall also be according to the form prescribed in the schedule to this chapter marked B; and the said writs and writs on final process shall respectively bear date on the day of the issuing thereof and be tested in the name of the Judge presiding in said Court, or of the Judge who presided in the last term if issued in vacation.

2. Such writs, together with the copies thereof to be served, shall respectively have annexed thereto a notice containing the particulars of the plaintiff's cause of action for which such writs may be issued; and the said Court may hear and determine all such causes in a summary manner; and it shall not be necessary for the plaintiff or defendant to file any formal appearance, plea, issue or default roll, or to enter up any postea or judgment therein; but the Clerk of the Court shall make an entry on the writ and in his memorandum book of the defendant's appearance and the grounds of his defence; and all causes shall proceed upon the original writ as filed in Court, and the notice of the particulars of the plaintiff's demand thereto annexed; and a memorandum of the judgment shall be entered on the record book and on the writ of the proceedings thereof: Provided that in all causes in which eighty dollars or upwards shall be sought to be recovered, or the action may be one of tort, or involve the question of title to land, the plaintiff or defendant may have a jury for the trial thereof if he shall require the same, or the Court may direct that the cause shall be tried by a jury; and such trial by jury shall be upon the original writ, and the said notice of particulars thereto annexed, in the manner hereinbefore provided; the costs of such jury to be paid in the first place by the party taking it, or by the plaintiff when the Court directs that a jury be taken, and to be finally certified for and taxed according to the practice of the Supreme Court in St. John's.

3. Such writs may be made returnable on any day during the sitting of the said Court, and all causes shall be tried on the day of the return of the writ unless the Court or Judge shall otherwise order, or unless the service of the writ shall be made on the day of the return thereof.

4. In all actions commenced by writ of *capias ad respondendum*, the defendant shall, within twenty-four hours after the return of such writ, put in and justify bail to the action, without exception to such bail.

5. In cases of default the plaintiff need not enter an appearance in

writing for the defendant. No judgment by default shall be given against the defendant unless upon an affidavit of the service of the writ or process on him or on his accredited or known agent ; and before the plaintiff shall be entitled to enter such judgment satisfactory evidence shall be given in open Court of the amount due or the damage sustained ; whereupon judgment by default for the sum awarded by the Court or jury, if the Court shall see fit to refer it to a jury, shall be entered up in the manner hereinbefore provided. It shall not be necessary to serve the defendant with notice of assessment of damages ; but on the copy of the writ or process to be served on the defendant, notice shall be given him that if he neglect to appear on the return day thereof, the plaintiff will sign judgment by default, and proceed to the assessment of damages as soon thereafter as the Court can attend to the same, and enter up final judgment accordingly.

6. When it shall appear to the Court that the party in default, from remoteness of residence from the place where the Court is sitting, or any other cause, has not had sufficient time given him to appear, the trial of the cause shall be postponed for such time as the Court shall deem reasonable.

7. Execution may issue immediately after judgment, unless the Court shall stay the same for sufficient cause ; which execution, if against the goods and chattels, lands and tenements of the defendant, shall be in the form marked F in the schedule to this chapter annexed, and if against the person of the defendant, in the form marked G in said schedule.

8. Actions for the recovery of lands, tenements, or hereditaments shall be commenced by a writ of summons, in the form A in the schedule annexed, which shall have a notice annexed thereto, and to the copy thereof to be served on the defendant, containing the description of the property sought to be recovered, and the town, settlement, or district in which the same may be situated ; and such writ may be served personally on the tenant in the actual possession of such lands, tenements or hereditaments, in such manner as declarations may now be served in actions of ejectment ; and shall be made returnable in the same manner as is prescribed for the return of any writ issued under and by virtue of this chapter ; and all proceedings in such action, with reference to the appearance, pleadings, trial and judgment in the said Court, on the part of the plaintiff and defendant, shall be the same as are hereinbefore provided in other actions brought or prosecuted therein : Provided that in all cases of default, or when the defendant shall

neglect or refuse to appear in such action, the said Court shall proceed to hear and determine the same in the manner hereinbefore provided for the trial of other cases of default, without notice of such trial or rule for judgment.

9. A person not named in said writ may, by leave of the Court, be allowed to appear and defend, on filing an affidavit stating that he is in possession of the premises either by himself or his tenant.

10. On any trial to be had under the provisions of the eighth section of this chapter, whether the defendant shall appear on such trial or not, the Court may permit the plaintiff, after proof of his right to recover possession of the whole or of any part of the said premises mentioned in the notice annexed to the writ, and that the defendant has been in possession of the said premises, to give evidence of the mesne profits thereof which shall or might have accrued from the time of the plaintiff's right of entry or recovery down to the time of the judgment or verdict given in the cause, or to some preceding day to be specially mentioned therein, and the Judge or a jury on the trial, finding for the plaintiff, shall in such case give the judgment or verdict upon the whole matter, both as to the recovery of the whole or any part of the premises, and also to the amount of damages to be paid for such mesne profits: Provided that nothing herein contained shall prevent the plaintiff from bringing a separate action for the mesne profits.

11. In all such actions the plaintiff shall, after obtaining final judgment, be at liberty to issue a writ of possession according to the form prescribed in the schedule to this chapter marked E.

12. The Supreme Court on circuit shall have power, in criminal as well as civil proceedings, to commit and imprison in any common gaol in the colony, whether within the limits of the circuit or not.

13. In matters not herein specially provided for, the practice of the Supreme Court in St. John's shall, so far as the same may be practicable, be observed on the northern and southern circuits; and the Judges of the Supreme Court may modify and alter such practice by rules and orders to be made, for the purposes of the northern and southern circuits, where circumstances may make it expedient, such rules and orders to be published in the *Royal Gazette* of this colony. The same scale of costs and fees as in the Supreme Court in St. John's shall, so far as applicable, be used.

SCHEDULE.

A.—WRIT OF SUMMONS OR ATTACHMENT.

NEWFOUNDLAND, }
District. }

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To the Sheriff of the district of Newfoundland and his deputies, greeting :

Summon (or attach, as the case may be) by lands, chattels goods, debts and effects of that he be before our Supreme Court at on the day of A. D., 18 , (or "on the first day of next term," as the case may be,) to answer the complaint of contained in the notice hereunto annexed to the damage of the plaintiff of dollars, as it is said.

Witness the Honorable Justice day of
in the year of our LORD one thousand eight hundred and

By the Court,

Plaintiff's attorney.

Clerk

Court.

(If Attachment, oath for \$)

B.—WRIT OF CAPIAS AD RESPONDENDUM.

NEWFOUNDLAND, }
District. }

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To the Sheriff of the district of Newfoundland and his deputies, greeting :

We command that you take of in the district of in the island aforesaid and safely keep so that you have body before our Supreme Court at in the said district, on the day of A. D., 18 , (or "on the first day of next term," as the case may be,) then and there to answer to the complaint of contained in the notice hereunto annexed, to the damage of the said plaintiff of dollars, as it is said ; and have you then there this writ.

Witness the Honorable Justice at
the day of in the year of our LORD 18

By the Court,

Clerk

Court.

Attorney for plaintiff.

C.—NOTICE ENDORSED ON MESNE PROCESS.

In the Supreme Court,

Plaintiff.

versus

Defendant.

The defendant served with this process to the intent that
 may either in person or by attorney appear and plead
 to this action in this Court at on the day of
 A. D., 18 , otherwise judgment will be given against
 by default.

(In simple actions of debt, after the word "default," add "for the amount claimed in the within particulars." In other cases, after the word "default," add "and the plaintiff will thereupon proceed to assess the damages in this action without further notice to the said defendant.")

Plaintiff's attorney.

D.—AFFIDAVIT ENDORSED ON MESNE PROCESS.

Supreme Court,

Plaintiff.

versus

Defendant.

District. }

C. D., of , maketh oath and saith that he did on the
 day of personally serve the above named with a
 true copy of the within writ, whereupon was endorsed a notice of the
 true intent of such service and a copy of the particulars hereunto
 annexed, and that he necessarily travelled miles to make such
 service.

Sworn to before me at
 this day of
 A. D., 18

D.

E.—WRIT OF HABERE FACIAS POSSESSIONEM AND FIERI FACIAS FOR COSTS IN EJECTMENT.

Victoria, by the Grace of God, of the United Kingdom of Great
 Britain and Ireland, Queen, Defender of the Faith, &c., &c.

NEWFOUNDLAND,
 District. }

To the Sheriff of the
 his deputies, greeting :

district of Newfoundland and

Whereas

in

lately in our Supreme Court before us at
 the district of this island,

by our writ and judgment of the same Court, recovered
 against the possession of a certain piece of land and premises
 belonging to him in the said district, situated and bounded as follows,
 that is to say : (here take the description from minutes of judgment,
 and insert the same) ; from which piece of land and premises the said
 ejected the said whereof the said
 stands convicted, as appears to us of record : Therefore we command
 you that without delay you cause the said to have
 possession of the said land, tenements and premises ; and in what man-
 ner you shall have executed this our writ make appear on the first
 day of the next term of our said Court at in the said dis-
 trict. We also command you that of the goods and chattels, lands and
 tenements of the said in your bailiwick, you cause to be made
 the sum of which the said lately in our said
 Court before us at in the said district, reported against
 the said for his damages, which he has sustained as well on
 occasion of the said ejectment as for his costs and charges by him
 about his suit in that behalf expended, whereof the said
 is also convicted, as appears to us of
 record ; and have you the said moneys before us on the return day
 aforesaid, at the time and place aforesaid, and have you then there
 this writ.

Witness the honorable Justice at
 aforesaid, the day of
 in the year of our LORD, 18
 By the Court.
 Clerk Court.
 Attorney for plaintiff.

F.—WRIT OF FIERI FACIAS.

NEWFOUNDLAND, }
 District. }

Victoria, by the Grace of GOD, of the United Kingdom of Great
 Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To the Sheriff of the district of Newfoundland and his
 deputies, greeting :

We command you, that of the goods and chattels, lands and tene-
 ments of within your bailiwick, you cause to be made
 dollars and cents, which
 lately in our Supreme Court before us at recovered against
 for damages and costs, and have that money
 before on the first day of next term, at to be
 rendered to the said and have you then there this writ.

Witness the honorable Justice at
 aforesaid, the day of
 in the year of our LORD, 18
 By the Court.
 Clerk Court.

G.—WRIT OF CAPIAS AD SATISFACIENDUM.

NEWFOUNDLAND, }
 District. }

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To the Sheriff of the district of Newfoundland and his deputies, greeting:

We command that you take if he shall be found in your bailiwick, and him safely keep, so that you may have his body before us at in our Supreme Court on the day of next, (or "on the first day of next term," as the case may be,) to satisfy of a certain debt and costs of dollars and cents which the said lately in our said Court before us at recovered against him for his damages and costs, and have you then there this writ.

Witness the honorable Justice at aforesaid, the day of in the year of our LORD, 18

By the Court.

Clerk

Court.

CHAPTER 22.

OF THE FORMS OF PLEADINGS IN THE SUPREME COURT IN ST. JOHN'S.

SECTION 1.

- 1—Statements to be omitted.
- 2—Judgment upon demurrer.
- 3—Special demurrer taken away.
- 4—Embarrassing pleadings struck out.
- 5—Pleadings to be dated and entered as of time of pleading.
- 6—Profert and oyer abolished.
- 7—Document set out in pleading.
- 8—Declaration for libel or slander.
- 9—Commencement of declaration.
- 10—Several counts on same cause of action not allowed.
- 11—Several pleas, &c., on same cause of answer or defence not allowed.
- 12—Venue to be named in margin.
- 13—Character in which plaintiff or defendant appears on record not in issue unless denied.
- 14—Initials and contractions.
- 15—In trespass *locus in quom* must be named.
- 16—No rule to plead necessary.
- 17—Express colour abolished.
- 18—Special traverses abolished.
- 19—Formal commencement and prayer of judgment unnecessary.
- 20—Commencement of plea.
- 21—Defence arising after action to shew when, &c., and verified by affidavit.
- 22—Plea to actions, partaking of contract and tort.
- 23—Payment, set-off, &c., pleas of to be construed distributively.
- 24—Special traverse of declaration.
- 25—Traverse of plea or subsequent pleading of the defendant.
- 26—Traverse of replication.
- 27—Joinder of issue.
- 28—Pleading and demurring together.
- 29—Pleading several matters.
- 30—Objections to pleading several matters, when to be heard.
- 31—Certain pleas may be pleaded together.

SECTION 2.

- 32—If several pleas, &c., pleaded without leave, judgment may be signed.
- 33—One new assignment only allowed.
- 34—Plea not to be repeated.
- 35—Form of demurrer and joinder of demurrer.
- 36—No rule for *concilium* necessary.
- 37—Two days' notice of argument.
- 38—Effect of non-assumpsit.
- 39—Non assumpsit on bills of exchange.
- 40—Matters in confession and avoidance to be specially pleaded.
- 41—Actions on policies of insurance.
- 42—On specialties.
- 43—Plea *nil debet* not allowed.
- 44—Matters in confession and avoidance to be pleaded.
- 45—Sums credited need not be pleaded.
- 46—Payment to be pleaded in bar.
- 47—Actions for detaining goods.
- 48—Plea "not guilty" in actions for torts.
- 49—Matters in confession, &c., to be pleaded.
- 50—Effect of "not guilty" in trespass.
- 51—Effect of "not guilty" in trover, &c.
- 52—Statute authorizing special matters to be noted.
- 53—Entry of continuance not necessary.
- 54—Judgments to be entered of the day when signed.
- 55—Examples of pleading as per schedule.
- 56—Equitable defence may be pleaded.
- 57—Equitable defence arising after time of pleading expired.
- 58—Equitable replication.
- 59—Court or Judge may strike out equitable plea or replication.
- 60—Amendment of errors in proceedings.
- 61—Supreme Court may make rules, &c.
- 62—Computation of time.
- 63—Right to plead general issue by statute not affected.

1. All statements which need not be proved, such as the statement of time, quantity, quality and value, where these are immaterial, the

statement of losing and finding, and bailment, in actions for goods, or their value, the statement of acts of trespass having been committed with force and arms, and against the peace of our Lady the Queen, the statement of promises which need not be proved, as promises in *indebitatus* counts, and mutual promises to perform agreements, and all statements of a like kind, shall be omitted.

2. Either party may object by demurrer to the pleading of the opposite party, on the ground that such pleading does not set forth sufficient ground of action, defence or reply, as the case may be; and where issue is joined on such demurrer, the Court shall proceed and give judgment according as the very right of the cause and matter in law shall appear to them, without regarding any imperfection, omission, defect in, or lack of form; and no judgment shall be arrested, stayed, or reversed, for any such imperfection, omission, defect in, or lack of form.

3. No pleading shall be deemed insufficient for any defect which could heretofore be objected to only by special demurrer.

4. If any pleading be so framed as to prejudice, embarrass, or delay the fair trial of the action, the opposite party may apply to the Court or a Judge to strike out or amend such pleading; and the Court or Judge shall make such order respecting the same, and also respecting the cost of the application, as the Court or Judge shall see fit.

5. Every declaration and other pleading shall be entitled in the Court and of the day of the month and year when the same was pleaded, and shall bear no other time or date; and every declaration and other pleading shall also be entered on the record made up for trial, and on the judgment roll, under the date of the day of the month and year when the same respectively took place, and without reference to any other time or date, unless otherwise specially ordered by the Court or a Judge.

6. It shall not be necessary to make profert of any deed or other document mentioned or relied on in any pleading; and if profert be made, it shall not entitle the opposite party to crave *oyer* of, or set out upon *oyer* such deed or other document.

7. A party pleading in answer to any pleading in which any document is mentioned or referred to may set out the whole or such part thereof as may be material, and the matter so set out shall be deemed and taken to be a part of the pleading in which it is set out.

8. In actions of libel and slander the plaintiff may aver that the words or matter complained of were used in a defamatory sense, speci-

fyng such 'defamatory sense without any prefatory averment to show how such words or matter were used in that sense; and such averment shall be put in issue by the denial of the alleged libel or slander; and where the words or matters set forth, with or without the alleged meaning, show a cause of action, the declaration shall be sufficient.

9. The commencements and conclusions of declarations shall be as in the schedule annexed.

10. Except as hereinafter provided, several counts on the same cause of action shall not be allowed, and any count or counts used in violation of this section may, on the application of the party objecting within a reasonable time, or before an order made for time to plead, be struck out or amended by the Court or a Judge, on such terms as to costs or otherwise as such Court or Judge may think fit.

11. Several pleas, replications or subsequent pleadings, or several avowries or cognizances, founded on the same ground of answer or defence, shall not be allowed: Provided that on an application to the Court or a Judge to strike out any count, or upon an objection taken before the Judge on a summons to plead several matters to the allowance of several pleas, replications or subsequent pleadings, avowries or cognizances, on the ground of such counts or other pleadings being in violation of this or the preceding section, the Court or a Judge may allow such counts on the same cause of action, or such pleas, replications or subsequent pleadings, or such avowries or cognizances, founded on the same ground of answer or defence, as may appear to such Court or Judge to be proper for the determining the real question in controversy between the parties on its merits, subject to such terms as to costs and otherwise as the Court or a Judge may think fit.

12. The name of a district shall in all cases be stated in the margin of a declaration, and shall be taken to be the venue intended by the plaintiff; and no venue shall be stated in the body of the declaration, or in any subsequent pleading.

13. In all actions by and against the trustees of an insolvent, or executors or administrators, or persons authorized by act of parliament to sue or be sued as nominal parties, the character in which the plaintiff or defendant is stated on the record to sue or be sued shall not in any case be considered as in issue unless specially denied.

14. In all actions upon bills of exchange or promissory notes, or other written instruments, any of the parties to which are designated by the initial letter or letters, or some contraction of the Christian or first name or names, it shall be sufficient in every affidavit to hold to

bail, and, in the process or declaration, to designate such person by the same initial letter or letters, or contraction of the Christian or first name or names, instead of stating the Christian or first name or names in full.

15. In actions for trespass to land, the close or place in which, &c., must be designated in the declaration, by name or abuttals, or other description; in failure whereof the plaintiff may be ordered to amend, with costs, or give such particulars as the Court or a Judge may think reasonable.

16. No rule for or demand of plea or subsequent pleading shall be necessary, but the defendant shall plead within the time mentioned on the writ, and every subsequent pleading shall be filed and served within two days after the filing and service of the preceding pleading, unless the time be extended by the Court or Judge.

17. Express colour shall not be necessary in any pleading.

18. Special traverses shall not be necessary in any pleading.

19. In a plea or subsequent pleading it shall not be necessary to use any allegation of *actionem non* or *actionem ulterius non*, or to the like effect, or any prayer of judgment; nor shall it be necessary, in any replication or subsequent pleading, to use any allegation of *precludi non*, or to the like effect, or any prayer of judgment.

20. No formal defence shall be required in a plea or avowry or cognizance, and it shall commence as follows, or to the like effect:—

“The defendant by his attorney (or in person, as the case may be) says that (here state the first defence.)”

And it shall not be necessary to state in a second or other plea or avowry, or cognizance, that it is pleaded by leave of the Court or a Judge, or according to the form of the statute, or to that effect; but every such plea, avowry or cognizance, shall be written in a separate paragraph and numbered, and shall commence as follows, or to the like effect:—And for a second (&c.) plea, the defendant says that (here state second, &c., defence); or if pleaded to part only, then as follows or to the like effect:—And for a second, (&c.) plea to (stating to what it is pleaded) the defendant says that, &c.; and no formal conclusion shall be necessary to any plea, avowry, cognizance, or subsequent pleading.

21. Any defence arising after the commencement of the action and before trial shall show when the cause of defence arose, and shall be accompanied by an affidavit of verification.

22. Whereas certain causes of action may be considered to partake

of the character both of breaches of contract and of wrongs, and doubts may arise as to the form of pleas in such actions, and it is expedient to preclude such doubts therefrom, any plea which shall be good in substance shall not be objectionable on the ground of its treating the declaration either as framed for a breach of contract or for a wrong.

23. Pleas of payment and set-off, and all other pleadings capable of being construed distributively, shall be taken distributively; and if issue be taken thereon, and so much thereof as shall be sufficient answer to part of the causes of action proved shall be found true by a jury, a verdict shall pass for the defendant in respect of so much of the cause of action as shall be answered, and for the plaintiff in respect of so much of the cause of action as shall not be so answered.

24. A defendant may either traverse generally such of the facts contained in the declaration as might have been denied by one plea, or may select and traverse separately any material allegation in the declaration, although it might have been included in a general traverse.

25. A plaintiff may traverse the whole of any plea or subsequent pleading of the defendant by a general denial, or, admitting some part or parts thereof, deny all the rest, or any one or more allegations.

26. A defendant may, in like manner, deny the whole or part of a replication or subsequent pleading of the plaintiff.

27. Either party may plead, in answer to the plea or subsequent pleading of his adversary, that he joins issue thereon, which joinder of issue may be as follows, or to the like effect:

“The plaintiff joins issue upon the defendant’s first (&c., specifying what or what part) plea. The defendant joins issue upon the plaintiff’s replication to the first (&c., specifying what) plea.”

And such form of joinder of issue shall be deemed to be a denial of the substance of the plea or other subsequent pleading and an issue thereon; and in all cases where the plaintiff’s pleading is in denial of the pleading of the defendant, or some part of it, the plaintiff may add a joinder of issue for the defendant.

28. Either party may, by leave of the Court or a Judge, plead and demur to the same pleading at the same time; and it shall be in the discretion of the Court or a Judge to direct which issue shall first be disposed of.

29. The plaintiff in any action may, by leave of the Court or a Judge, plead in answer to the plea, or the subsequent pleading of the defendant, as many several matters as he shall think necessary to sustain his action; and the defendant in any action may, by leave of the

Court or a Judge, plead in answer to the declaration, or other subsequent pleading of the plaintiff, as many several matters as he shall think necessary for his defence: Provided that the costs of any issue, either in fact or law, shall follow the finding or judgment upon such issue, and be adjudged to the successful party, whatever may be the result of the other issue or issues.

30. All objections to the pleading of several pleas, replications or subsequent pleadings, or several avowries, or cognizances, on the ground that they are founded on the same ground of answer or defence, shall be heard upon the summons to plead several matters.

31. The following pleas, or any two or more of them, may be pleaded together as of course, without the leave of the Court or a Judge, that is to say: a plea denying any contract or debt alleged in the declaration; a plea of tender as to part; a plea of the statute of limitations; set-off; bankruptcy of the defendant; discharge under an insolvent act; *plene administravit*; *plene administravit præter*; infancy; coverture; payment; accord and satisfaction; release; not guilty; a denial that the property, an injury to which is complained of, is the plaintiff's; leave and licence; *son assault demesne*; *molliter manus imposuit* in defence of possession; and any other pleas which the Judges of the Court shall by any rules or orders, to be from time to time by them made in term or vacation, order or direct.

32. Except in cases herein specially provided for, if either party plead several pleas, replications, avowries, cognizances or other pleadings, without leave of the Court or a Judge, the opposite party may sign judgment: Provided that such judgment may be set aside by the Court or a Judge upon an affidavit of merits, and such terms as to costs and otherwise as they or he may think fit.

33. One new assignment only shall be pleaded to any number of pleas to the same cause of action; and such new assignment shall be consistent with and confined by the particulars delivered in the action (if any), and shall state that the plaintiff proceeds for causes of action different from all those which the pleas profess to justify, or for an excess over and above what all the defences set up in such pleas justify, or both.

34. No plea which has already been pleaded to the declaration shall be pleaded to such new assignment, except a plea in denial, unless by leave of the Court or Judge; and such leave shall only be granted upon satisfactory proof that the repetition of such plea is essential to a trial on the merits.

35. The form of a demurrer, except in the cases herein specially provided for, shall be as follows, or to the like effect:

"The defendant by his attorney, (or in person, &c., or plaintiff) says, that the declaration (or plea, &c.) is bad in substance.

And in the margin thereof some substantial matter of law intended to be argued shall be stated; and if any demurrer shall be delivered without such statement, or with a frivolous statement, it may be set aside by the Court or a Judge, and leave may be given to sign judgment as for want of a plea; and the form of a joinder in demurrer shall be as follows, or to the like effect:

"The plaintiff (or defendant) says that the declaration (or plea, &c.) is good in substance," and the same shall be filed and delivered within two days after the filing of a demurrer.

36. No motion or rule for a *concilium* shall be necessary, but the demurrer may be set down for argument by either party upon two days' notice.

37. Two clear days before the day appointed for argument, copies of the demurrer-book, duly noted with the points for argument, shall be delivered to the Court, whereof one shall be delivered by the plaintiff to the Chief Justice, and one each to the Assistant Judges by the defendant, and either party not delivering his books at the time appointed shall not be heard on the argument.

38. In all actions on simple contract, except as hereinafter excepted, the plea of *non assumpsit*, or a plea traversing the contract or agreement alleged in the declaration, shall operate only as a denial in fact of the express contract, promise or agreement alleged, or of the matters of fact from which the contract, promise or agreement alleged, may be implied by law.

39. In all actions upon bills of exchange and promissory notes, the plea of *non assumpsit* and "never indebted" shall be inadmissible. In such actions, therefore, a plea in denial must traverse some matter of fact; *exempli gratia*, the drawing, or making, or endorsing, or accepting, or presenting, or notice of dishonour, of the bill or note.

40. In every species of action on contract, all matters in confession and avoidance, including not only those by way of discharge, but those which show the transaction to be either void or voidable in point of law on the ground of fraud or otherwise, shall be specially pleaded; *exempli gratia*, infancy, coverture, release, payment, performance, illegality of consideration either by statute or common law, drawing, endorsing, accepting, &c., bills or notes by way of accommodation, set-

off, mutual credit, unseaworthiness, misrepresentation, concealment, deviation and various other defences must be pleaded.

41. In actions on policies of insurance, the interest of the assured may be averred thus :

“That A. B. C. and D., (or some or one of them,) were or was interested,” &c., &c. ; and it may also be averred “that the insurance was made for the use and benefit and on the account of the person or persons so interested.”

42. In actions on specialties and covenants, the plea of *non est factum* shall operate as a denial of the execution of the deed in point of fact only ; and all other defences shall be specially pleaded, including matters which make the deed absolutely void, as well as those which make it voidable.

43. The plea of *nil debet* shall not be allowed in any action.

44. All matters in confession and avoidance shall be pleaded specially, as above directed in actions on simple contracts.

45. In any case in which the plaintiff shall have given credit in the particulars of his demand for any sum or sums of money therein admitted to have been paid to the plaintiff, or which the plaintiff admits the defendant is entitled to set off, the defendant need not plead the payment or set-off of such sum or sums of money. But this section is not to apply to cases where the plaintiff, after stating the amount of his demand, states that he seeks to recover a certain balance, without giving credit for any particular sum or sums, or to the cases of set-off where the plaintiff does not state the particulars of such set-off.

46. Payment shall not in any case be allowed to be given in evidence in reduction of damages or debt, but shall be pleaded in bar.

47. In actions for detaining goods, the plea of *non detinet* shall operate as a denial of the detention of the goods by the defendant, but not of the plaintiff's property therein ; and no other defence than such denial shall be admissible under that plea.

48. In actions for torts the plea of not guilty shall operate as a denial only of the breach of duty or wrongful act alleged to have been committed by the defendant, and not of the facts stated in the inducement, and no other defence than such denial shall be admissible under that plea ; all other pleas in denial shall take issue on some particular matter of fact alleged in the declaration.

49. All matters in confession and avoidance shall be pleaded specially, as in actions on contracts.

50. In actions for trespass to lands the plea of not guilty shall oper-

ate as a denial that the defendant committed the trespass as alleged in the place mentioned, but not as a denial of the plaintiff's possession or right of possession of that place, which, if intended to be denied, must be specially traversed.

51. In actions for taking, damaging, or converting the plaintiff's goods, the plea of not guilty shall operate as a denial of the defendant having committed the wrong alleged by taking, damaging, or converting the goods mentioned, but not of the plaintiff's property therein.

52. In every case in which the defendant shall plead the general issue, intending to give special matter in evidence by virtue of an act of the Parliament of Great Britain, or of the Legislature of this colony, he shall insert in the margin of the plea the words "by Statute," together with the year or years of the reign in which the act or acts of Parliament, or of the Legislature, upon which he relies for that purpose, were passed, and also the chapter and section of each of such acts, and shall specify whether such acts are public or otherwise; otherwise such plea shall be taken not to have been pleaded by virtue of any act of Parliament or of the Legislature; and such memorandum shall be inserted in the margin of the issue and of the record.

53. No entry of continuance by way of *imparlance*, *curia advisari vult*, *vice-comes*, *non misit breve*, or otherwise, shall be made upon any record or roll whatever, or in the pleadings.

54. All judgments, whether interlocutory or final, shall be entered of record of the day of the month and year, whether in term or in vacation, when signed, and shall not have relation to any other day: Provided that it shall be competent for a Court or a Judge to order judgment to be entered *nunc pro tunc*.

55. The forms of statements of causes of action and of pleadings contained in the schedule to this chapter annexed shall be sufficient, and those and the like forms may be used, with such modifications as may be necessary to meet the facts of the case; but nothing herein contained shall render it erroneous or irregular to depart from the letter of such forms, so long as the substance is expressed without prolixity.

56. The defendant or plaintiff in replevin, in any cause in which if judgment were obtained he would be entitled to relief against such judgment on equitable grounds, may plead the facts which entitle him to such relief by way of defence; and the Court may receive such defence by way of plea: Provided that such plea shall begin with the words "for defence on equitable grounds," or words to the like effect.

57. Any such matter which, if it arose before or during the time of

pleading, would be an answer to the action by way of plea, may, if it arise after the lapse of the period during which it could be pleaded, be set up by way of *audita querela*.

58. The plaintiff may reply, in answer to any plea of the defendant, facts which avoid such plea upon equitable grounds: Provided that such replication shall begin with the words "for replication on equitable grounds," or words to the like effect.

59. If it shall appear to the Court or a Judge that any such equitable plea or equitable replication cannot be dealt with by a Court of law so as to do justice between the parties, the Court or Judge may order the same to be struck out on such terms as to costs and otherwise as to the Court or Judge may seem reasonable.

60. The Court or a Judge may at all times amend all defects and errors in any proceeding under the provisions of this chapter, whether there is anything in writing to amend by or not, and whether the defect or error be that of the party applying to amend or not; and all such amendments may be made with or without costs, and upon such terms as to the Court or a Judge may seem fit; and all such amendments as may be necessary for the purpose of determining in the existing suit the real question in controversy between the parties, shall be so made if duly applied for.

61. The Supreme Court may make all such general rules and orders, and frame and direct all such forms of proceedings, for the effective execution of this chapter, and of the intention and object thereof, as in their judgment shall be necessary and proper; and all such rules, orders and proceedings shall be published in the *Royal Gazette* of this colony for one month before they shall come into operation, and shall be acted upon and enforced in the same manner as other rules, orders and proceedings of the said Court are now acted upon and enforced, or as near thereto as circumstances will permit.

62. In the computation of time under this chapter, the period within which any act is to be done is to be calculated one day exclusive and the other inclusive, unless the first or last of such days should be Sunday, Good Friday, Christmas day, New Year's day, or the Queen's birth-day, which are to be in such cases excluded from the computation.

63. Nothing in this chapter shall avoid or lessen the right given to any defendant by statute to plead the general issue, and give the special matter in evidence.

SCHEDULE.

1.—COMMENCEMENT OF DECLARATION.

Venue.—A. B., by C. D. his attorney, complains of G. H. for that, &c. (here state the cause of action, and conclude as follows) and the plaintiff claims dollars, (or return of the said goods or their value, and dollars for their detention.)

(Where the non-joinder of a co-defendant has been pleaded, and the plaintiff has thereupon either commenced another action or amended, insert after G. H. and J. K., "which said G. H. has heretofore pleaded in abatement, the non-joinder of the said J. K.")

2.—ON CONTRACTS.

1. Money payable by the defendant to the plaintiff for (these words, "money payable," &c., shall precede money counts, but need only be inserted in the first) goods bargained and sold by the plaintiff to the defendant.

2. Goods sold and delivered by the plaintiff to the defendant.

3. Work done and materials provided by the plaintiff for the defendant.

4. Money lent by the plaintiff to the defendant.

5. Money paid by the plaintiff for the defendant.

6. Money received by the defendant for the use of the plaintiff.

7. Money found to be due from the defendant to the plaintiff on accounts stated between them.

8. A message and lands sold and conveyed by the plaintiff to the defendant.

9. The good-will of a business of the plaintiff sold and given up by the plaintiff to the defendant.

10. The defendant's use, by the plaintiff's permission, of messuages and lands of the plaintiff.

11. The hire of (as the case may be), by the plaintiff let to hire to the defendant.

12. Freight for the conveyance, by the plaintiff for the defendant, of goods in ships.

13. The demurrage of a ship of the plaintiff kept on demurrage by the defendant.

14. That the defendant, on the day of A. D. by his promissory note, now overdue, promised to pay to the plaintiff dollars (two) months after date, but did not pay the same.

15. That A. on, &c. (insert date), by his promissory note, now overdue, promised to pay to the defendant or his order dollars months after date; and the said defendant endorsed the same to the plaintiff, and the said note was duly presented for payment and was dishonored, whereof the defendant had due notice, but did not pay the same.

16. That the plaintiff on, &c. (insert date), by his bill of exchange,

now overdue, directed to the defendant, required the defendant to pay to the plaintiff dollars months after date; and the defendant accepted the said bill, but did not pay the same.

17. That the defendant on, &c. (insert date), by his bill of exchange directed to A., required A. to pay to the plaintiff dollars (two) months after date, and the said bill was duly presented for acceptance and was dishonored, of which the defendant had due notice, but did not pay the same.

18. That the defendant, by warranting a horse to be then sound and quiet to ride, sold the said horse to the said plaintiff; yet the said horse was not then sound and quiet to ride.

19. That the plaintiff let to the defendant a house, No. street, for years, to hold from the day of anno Domini, 18 at dollars a year, payable half-yearly, of which rent (one half-year's, or one year's, or as the case may be) is now due and unpaid.

20. That the plaintiff, by deed, let to the defendant a house, No. in street to hold for years, from the day of anno Domini, 18 , and the said defendant covenanted with the plaintiff well and substantially to repair the said house during the said term (according to the covenant), yet the said house was, during the said term, out of good and substantial repair.

3.—FOR WRONGS INDEPENDENT OF CONTRACT.

That the defendant broke and entered certain land of the plaintiff called , and depastured the same with cattle.

That the defendant assaulted and beat the plaintiff, gave him into custody to a policeman, and caused him to be imprisoned in a police office.

That the defendant converted to his own use or wrongfully deprived the plaintiff of the use and possession of the plaintiff's goods, that is to say (household furniture, or as the case may be.)

The defendant detains from the plaintiff his title-deeds of land, called in the district of that is to say (describe the deeds.)

4.—DEFAMATION OF CHARACTER.

That the defendant falsely and maliciously spoke and published to the plaintiff the words following, that is to say,—“he is a thief.” (If there be any special damage here state it with such reasonable particularity as to give notice to the defendant of the peculiar injury complained of, for instance, “whereby the plaintiff lost his situation as store-keeper.”)

5.—COMMENCEMENT OF PLEA.

The defendant by his attorney (or in person) says, (here state the substance of the plea.)

And, for a second plea, the defendant says, (here state the second plea.)

6.—PLEAS IN ACTIONS ON CONTRACTS.

That he never was indebted as alleged. (This plea is applicable to declarations like those numbered 1 to 13.)

That he did not promise, &c., as alleged. (This plea is applicable to other declarations, not on bills and notes.)

That the alleged deed is not his deed.

That the alleged cause of action did not accrue within years (state the period of limitation applicable to the case) before the suit.

That before action he satisfied and discharged the plaintiff's claim for payment.

That the plaintiff at the commencement of this suit was, and still is, indebted to the defendant in an amount equal to the plaintiff's claim for (here state the claim of set-off as in a declaration—see forms *ante*) which amount the defendant is willing to set off against the plaintiff's claim.

That after the alleged claim accrued, and before the suit, the plaintiff by deed released the defendant therefrom.

7.—PLEAS IN ACTIONS FOR WRONGS INDEPENDENT OF CONTRACTS.

That he is not guilty.

That he did what is complained of by the plaintiff's leave.

That the plaintiff first assaulted the defendant, who thereupon necessarily committed the alleged assault in his own defence.

That the defendant at the time of the alleged trespass was possessed of land, the occupiers whereof, for twenty years before this suit, enjoyed as of right and without interruption a way on foot and with cattle from a public highway over the said land of the plaintiff to the said land of the defendant, and from the said land of the defendant over the said land of the plaintiff to the said public highway, at all times of the year, for the more convenient occupation of the land of the defendant; and that the alleged trespass was a use by the defendant of the said way.

8.—REPLICATIONS.

The plaintiff takes issue upon the defendant's (first, second, &c.) pleas.

The plaintiff, as to the second plea, says (here state the answer to the plea as in the following forms.)

That the alleged release is not the plaintiff's deed.

That the alleged release was procured by the fraud of the defendant.

That the alleged set-off did not accrue within six years before this suit.

That the plaintiff was possessed of land whereon the defendant was trespassing and doing damage, whereupon the plaintiff requested the said defendant to leave the said land, which the defendant refused to do; and thereupon the plaintiff gently laid his hands on the defendant in order to remove him, doing no more than was necessary for that purpose, which is the alleged first assault of the plaintiff.

That the occupiers of the said land did not, for twenty years before this suit, enjoy as of right, and without interruption, the alleged way.

9.—NEW ASSIGNMENTS.

The plaintiff as to the _____ and _____ pleas says, that he sues not for the trespasses therein admitted, but for trespasses committed by the defendant in excess of the alleged right, and also in other parts of the said land, and on other occasions and for other purposes than those referred to in the said pleas.

(If the plaintiff replies and new assigns, the new assignment may be as follows:)

And the plaintiff as to the _____ and _____ pleas, further says, that he sues not only for the trespasses in those pleas admitted, but also for, &c.

(If the plaintiff replies and new assigns to some of the pleas, and new assigns only to the other, the form may be as follows:)

And the plaintiff as to the _____ and _____ pleas, further says, that he sues not for the trespasses in the _____ pleas (the pleas not replied to) admitted, but for the trespasses in the _____ pleas (the pleas replied to) admitted, and also for, &c.

10.—FORM OF AN ISSUE ROLL IN GENERAL.

In the Supreme Court,
the _____ day of _____ in the year of our LORD, 18

(Date of declaration.)

The Venue.—A. B. by P. A., his attorney, (or in person, as the case may be, as in the declaration,) sues C. D., who has been summoned to answer the said A. B. by virtue of a writ issued on the _____ day of _____ in the year of our LORD _____ (the date of the writ,) out of her Majesty's Supreme Court for, &c., (copy the declaration from these words to the end, and all the pleadings with their dates, writing each plea or pleading in a separate paragraph, and numbering the same as in the pleading delivered, and conclude thus): Therefore let a jury come, &c.

11.—POSTEA.

Afterwards, on &c., at St. John's aforesaid, before the said Court, come the parties, by their attorneys aforesaid, and a jury empannelled also come, who being sworn say, upon their oath, that, &c., (according to the finding): Therefore, &c.

12.—JUDGMENT.

Therefore it is considered that the plaintiff do recover against the defendant his damages aforesaid (or his said debt, &c., as the case may be,) and also _____ dollars for his costs of suit by the Court adjudged to the plaintiff, and which (moneys or debt or damages) and costs amount in the whole to _____ dollars.

Judgment signed, &c.,

A. B., Clerk, &c.

Judgment for the defendant to be framed according to the principle of the preceding form.

13.—FORM OF ISSUE, &c., WHERE TRIAL IS BY A JUDGE INSTEAD OF A JURY.

As in ordinary cases to issue joined, and then thus: "and the said parties having by consent left the decision of the said issues to the Court, let the same be tried accordingly. Afterwards, on &c., at &c., before the said Court come the parties by their attorneys aforesaid, and the issues being tried, and the said Court having considered the allegations and proofs offered herein, do find, as to the first issue, that the defendant did promise as the plaintiff hath alleged; as to the second issue, that the defendant did not, &c., and the Court assess the plaintiff's damages, &c., (if any) &c. Therefore it is considered that the plaintiff do recover, &c., (or "that the defendant be discharged from the plaintiff's claim, and do recover, &c., his costs of suit, &c.")

The same form, with the necessary variations, may be adapted to cases wherein special cases have been submitted to the Court.

CHAPTER 23.

OF EVIDENCE.

SECTION

- 1—Examination of witnesses *de bene esse*, or under commission.
- 2—Compelling attendance of witnesses or production of documents.
- 3—Prisoners may be taken for examination.
- 4—Costs of order for examination.
- 5—As to reading examinations.
- 6—Meaning of term “beyond the jurisdiction.”
- 7—Parties to actions, &c., to be witnesses for and against each other.
- 8—Parties not competent as witnesses.
- 9—Husband or wife not compelled to disclose communications between them.
- 10—Parties to actions for breach of promise of marriage competent witnesses.
- 11—Privilege of clergymen.
- 12—Foreign and colonial acts of state, judgments, &c., how proveable.
- 13—Documents admissible without proof of seal, &c., in any Court of Justice.
- 14—Registers of vessels *prima facie* evidence &c.
- 15—Examined or certified copies of documents admissible in evidence.
- 16—Certifying a false document a misdemeanor.
- 17—Courts and others empowered to hear evidence may administer oath.
- 18—Penalty for forging seal to documents.
- 19—No person to be excluded for incapacity on account of crime. Any person in Court required to give evidence as if subpoenaed.
- 20—When depositions may be read.
- 21—Proceedings to perpetuate testimony.
- 22—Examinations or certified copies may be read in evidence.
- 23—Examinations how taken.
- 24—Admission of documents.

SECTION

- 25—Proof of admission.
- 26—Proof of notice to produce.
- 27—Affirmation instead of oath in certain cases.
- 28—Punishment of persons making a false affirmation.
- 29—Party objecting to be sworn may make declaration.
- 30—How far a party may discredit his own witness.
- 31—Proof of contradictory statements of adverse witness.
- 32—Cross-examination as to previous statements in writing.
- 33—Previous conviction of a witness may be proved.
- 34—When proof by attesting witness not necessary.
- 35—Comparison of disputed writing.
- 36—Power of Court or Judge to direct oral examinations of witnesses.
- 37—Proceedings before and upon examinations.
- 38—Examination of persons who refuse to make affidavit, and further proceedings.
- 39—Proceedings upon order for examination.
- 40—Discovery of documents.
- 41—Power to deliver written interrogatories to opposite party.
- 42—Affidavits by party proposing to interrogate.
- 43—Oral examinations of parties when to be allowed.
- 44—Proceedings upon such rule or order.
- 45—Depositions to be returned to the Master's office.
- 46—Examiner may make special report to the Court.
- 47—Costs of rule and examination.
- 48—Registered copy, proof in certain cases.

1. The Supreme Court, the Court of Labrador, and the several Judges of said Courts, in every action depending in the said Courts, upon the application of any party to the suit, and at any stage thereof, may order

the examination on oath, upon interrogatories or otherwise, before an examiner to be named for that purpose, of any witness within the jurisdiction of the Court in which the action shall be pending, or order a commission to issue for the examination of witnesses on oath at any place out of such jurisdiction, by interrogatories or otherwise ; and by the same or any subsequent order or orders, give all such directions touching the time, place, and manner of examinations, as well within the jurisdiction of the Court wherein the action shall be depending as without, and all other matters and circumstances connected with such examinations, as may appear reasonable and just.

2. When any rule or order shall be made for the examination of witnesses within the jurisdiction of the Court wherein the action shall be depending, by authority of this chapter, the Court or any Judge thereof, in and by the first rule or order to be made in the matter, or any subsequent rule or order, may command the attendance of any person to be named in such rule or order for the purpose of being examined, or the production of any writings or other documents to be mentioned in such rule or order, and direct the attendance of any such person to be at his own place of abode or elsewhere, if necessary or convenient so to do ; and the wilful disobedience of any such rule or order shall be a contempt of Court, and proceedings may be thereupon immediately had by attachment, by order of the Court or a Judge, if in addition to the service of the rule or order, an appointment of the time and place of attendance, in obedience thereto, signed by the person or persons appointed to take the examination, or by one or more of such persons, shall be also served together with or after the service of such rule or order : Provided, that every person whose attendance shall be so required shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial ; and that no person shall be compelled to produce, under any such rule or order, any writing or other document that he would not be compelled to produce at a trial of the cause.

3. Any Sheriff, gaoler, or other officer having the custody of any prisoner, may take such prisoner for examination under the authority of this chapter, by virtue of a rule or order of the Court or a Judge, either contained in the rule or order for the examination of such prisoner, or made separately therefrom.

4. The costs of every rule or order to be made for the examination of witnesses under commission or otherwise, by virtue of this chapter, and of the proceedings thereupon, shall be costs in the cause, unless

otherwise directed either, by the Judge making such rule or order, or by the Judge before whom the cause may be tried, or by the Court.

5. No examination or deposition, to be taken by virtue of this chapter, shall be read in evidence at any trial without the consent of the party against whom the same may be offered, unless it shall appear to the satisfaction of the Judge that the examinant or deponent is beyond the jurisdiction of the Court, or dead, or unable from sickness or permanent infirmity to attend the trial; in all or any of which cases the examinations and depositions, certified under the hand of the commissioner, examiner, or other person taking the same, shall and may, without proof of the signature to such certificate, be received and read in evidence, saving all just exceptions.

6. For the purposes of this chapter a witness shall be deemed to be beyond or proceeding beyond the jurisdiction of the Court when he shall be out of or about to proceed out of the electoral district in which the Court shall be holden.

7. On the trial of any issue joined, or of any matter or question, or on any inquiry arising in any suit, action or other proceeding, in any Court of Justice, or before any person having by law or by consent of parties authority to hear, receive, and examine evidence, the parties thereto, and the persons in whose behalf any such suit, action or other proceeding may be brought or defended, or who may have any interest in the result thereof, and the husbands and wives of the parties thereto, and of the parties in whose behalf any such suit, action or other proceeding may be brought or instituted, or opposed or defended, shall, except as hereinafter excepted, be competent and compellable to give evidence, either *viva voce* or by deposition, according to the practice of the Court, on behalf of either or any of the parties to the said suit, action, or other proceeding: Provided that the party so called to testify may be cross-examined by the opposite party under the rules applicable to the cross-examination of witnesses.

8. Nothing herein contained shall render any person who, in any criminal proceeding, is charged with the commission of any indictable offence, competent or compellable to give evidence for or against himself or herself, or shall render any person compellable to answer any question tending to criminate himself or herself, or shall in any such criminal proceeding render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband; nor shall anything in this chapter contained affect the laws now in force relating to

the estates of idiots or lunatics, or the execution or attestation of last wills and testaments: Provided that nothing herein contained shall preclude a defendant or the husband or wife of a defendant from becoming a witness, should he or she think fit, in any summary proceeding of a criminal or other nature; and that no witness in any proceeding instituted in consequence of adultery, whether a party to the suit or not, or the husband or wife of such party, shall be liable to be asked or bound to answer any question tending to show that he or she has been guilty of adultery, unless such witness shall have already given evidence in the same proceeding in disproof of his or her alleged adultery.

9. No husband shall be compellable to disclose any communication made to him by his wife during the marriage, and no wife shall be compellable to disclose any communication made to her by her husband during the marriage.

10. The parties to any action of breach of promise of marriage shall be competent to give evidence in such action: Provided that no plaintiff in any action for breach of promise of marriage shall receive a verdict unless his or her testimony shall be corroborated by some other material evidence in support of such promise.

11. A clergyman or priest shall not be compellable to give evidence as to any confession made to him in his professional character.

12. All proclamations, treaties, and other acts of state of any foreign state, or of any British colony, and all judgments, decrees, orders, and other judicial proceedings of any Court of Justice in Great Britain or Ireland, or in any foreign state, or in any British colony, and all affidavits, pleadings and other legal documents, filed or deposited in any such Court, may be proved in any Court of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence either by examined copies or by copies authenticated as hereinafter mentioned, that is to say: if the document sought to be proved be a proclamation, treaty or other act of state, the authenticated copy, to be admissible in evidence, must purport to be sealed with the seal of the foreign state or British colony to which the original document belongs; and if the document sought to be proved be a judgment, decree, order, or other judicial proceeding of any British, foreign, or colonial Court, or any affidavit, pleading or other legal document, filed or deposited in any such Court, the authenticated copy, to be admissible in evidence, must purport either to be sealed with the seal of the British, foreign or colonial Court to which the said original document belongs, or in the event of such Court having no

seal, to be signed by the Judge, or if there be more than one Judge, by any one of the Judges of the said Court; and such Judge shall attach to his signature a statement in writing, on the said copy, that the Court whereof he is Judge has no seal; but if any of the aforesaid authenticated copies shall purport to be sealed or signed as hereinbefore respectively directed, the same shall respectively be admitted in evidence in every case in which the original document could have been received in evidence, without any proof of the seal where a seal is necessary, or of the signature or of the truth of the statement attached thereto, where such signature and statement are necessary, or of the judicial character of the person appearing to have made such signature and statement.

13. Every document which by any law now in force, or hereafter to be in force, is or shall be admissible in evidence of any particular in any British Court of Justice, without proof of the seal, or stamp, or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same, shall be admitted in evidence, to the same extent and for the same purposes, in any Court of Justice in this colony, or before any person having by law or by consent of parties authority to hear, receive and examine evidence, without proof of the seal or stamp or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same.

14. Every register of a vessel kept under any of the acts relating to the registry of British vessels may be proved in any Court of Justice, or before any person having, by law or by consent of parties, authority to hear, receive and examine evidence, either by the production of the original or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the person having charge of the original, and which person is hereby required to furnish such certified copy to any person applying at a reasonable time for the same, upon the payment of the sum of twenty-five cents; and every such register and such copy of a register, and also every certificate of registry granted under any of the acts relating to the registry of British vessels, and purporting to be signed as required by law, shall be received in evidence in any Court of Justice, or before any person having, by law or by consent of parties, authority to hear, receive and examine evidence, as *prima facie* proof of all matters contained and recited in such register, when the register or such copy thereof as aforesaid is produced, and of all matters contained or recited in or endorsed on such certificate of registry when the said certificate is produced.

15. Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody, and no statute exists which renders its contents proveable by means of a copy, a copy thereof or extract therefrom shall be admissible in evidence in any Court of Justice, or before any person now or hereafter having, by law or consent of parties, authority to hear, receive, and examine evidence: Provided it be proved to be an examined copy or extract, or provided it purport to be signed and certified, as a true copy or extract, by the officer to whose custody the original is entrusted; and which officer is hereby required to furnish such certified copy or extract to any person applying at a reasonable time for the same, upon payment of a reasonable sum for the same, not exceeding ten cents for every folio of ninety words.

16. If any officer or other person authorized or required by this chapter to furnish any certified copies or extracts, shall wilfully certify any document as being a true copy or extract knowing that the same is not a true copy or extract, as the case may be, he shall be guilty of a misdemeanor, and be liable, upon conviction, to imprisonment for any term not exceeding eighteen months.

17. Every Court, Judge, Justice, officer, commissioner, arbitrator, or other person, now or hereafter having, by law or by consent of parties, authority to hear, receive, and examine evidence, is hereby empowered to administer an oath to all such witnesses as are legally called before them respectively.

18. If any person shall forge the seal, stamp, or signature of any document in this chapter mentioned or referred to, or shall tender in evidence any such document with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, he shall be guilty of felony, and shall, upon conviction, be liable to banishment for seven years, or to imprisonment for any term not exceeding three years, nor less than one year, with hard labor; and when any such document shall have been admitted in evidence by virtue of this chapter, the Court or the person who shall have admitted the same may, at the request of any party against whom the same is so admitted in evidence, direct that the same shall be impounded and kept in the custody of some officer of the Court, or other proper person, for such period and subject to such conditions as to the said Court or other, proper person shall seem meet; and every accessory before or after the fact to any such offence may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence laid and charged to have been

committed in any district or place in which the principal offender may be tried.

19. From and after the passing of this chapter, no person offered as a witness shall be excluded by reason of incapacity from crime from giving evidence according to the provisions of this chapter or otherwise; and any person present in Court, or before a judicial officer, may be required to testify in the same manner as if he were in attendance upon subpoena issued by such Court or officer.

20. When any deposition, examination or evidence, under commission or by consent of parties or otherwise, has been once taken, it may be read in any stage of the same action, suit or proceeding, or in any other action, suit or proceeding between the same parties, or the representatives of any of them, or any person claiming right or title under them (for the same cause of action), subject to all just exceptions: Provided the witness by whom such evidence has been given be dead, insane, beyond the jurisdiction of the Court, or be kept away by contrivance.

21. For the purpose of perpetuating the testimony of witnesses, the applicant must produce to one of the superior Courts of this island, or a Judge thereof, an affidavit stating such facts and circumstances as are usual and necessary to support a bill for perpetuating testimony; whereupon the Court or a Judge shall grant a rule or order *nisi* for the examination of the witness or witnesses; and upon the appearance of the adverse party, and no sufficient cause shown to the contrary, or upon proof of the service of the rule or order on such party, his agent or attorney, the Court or Judge shall make such rule or order absolute for such examination, subject to such terms or conditions, as to costs or otherwise, as they or he may deem expedient to prescribe.

22. If a trial be had between the parties named in the affidavit as parties actual or expectant, or their successors in interest, upon proof of the death, insanity, or absence from the jurisdiction of the witness, the examination or a certified copy thereof may be given in evidence by either party on the trial, subject to all just exceptions.

23. The examination, when taken and completed, must be subscribed by the witness, then certified by the examiner, and filed in the office of the Clerk of the Court from which the original order shall issue, together with the said order and affidavit of service. The mode of examination of the witness shall be *viva voce*, except in case the witness who is sought to be examined reside at such a distance from the place of application as to render it necessary or advisable that he

should be examined upon interrogatories, to accompany the order directing the examination. If the adverse party should fail in attending at the examination, or in examining the witness, or in furnishing his cross interrogatories within the time prescribed in the order, or such further time as the Court or Judge may allow, the applicant may proceed with such examination *ex parte*.

24. With respect to the admission of documents, either party may call on the other party, by notice, to admit any documents, saving all just exceptions; and in case of refusal or neglect to admit, the costs of proving the document shall be paid by the party so neglecting or refusing, whatever the result of the cause may be, unless at the trial the Judge shall certify that the refusal to admit was reasonable; and no costs of proving any documents shall be allowed unless such notice be given, except in cases where the omission to give the notice is, in the opinion of the Master, a saving of expense.

25. An affidavit of the attorney in the cause, or his clerk, of the due signature of any admission made in pursuance of such notice, and annexed to the affidavit, shall be in all cases sufficient evidence of such admission.

26. An affidavit of the attorney in the cause, or his clerk, of the service of any notice to produce, in respect to which notice to admit shall have been given, and of the time when it was served, with a copy of such notice to produce annexed to such affidavit, shall be sufficient evidence of the service of the original of such notice, and of the time when it was served.

27. If any person called as a witness, or required or desiring to make an affidavit or deposition, shall refuse or be unwilling from alleged conscientious motives to be sworn, the Court or Judge, or other presiding officer, or person qualified to take affidavits or depositions, may, upon being satisfied of the sincerity of such objection, permit such person, instead of being sworn, to make his or her solemn affirmation or declaration, in the words following—*videlicet* :

I, A. B., do solemnly, sincerely, and truly affirm and declare, that the taking of any oath is, according to my religious belief, unlawful, and I do also solemnly, sincerely, and truly affirm and declare, &c.

Which solemn affirmation and declaration shall be of the same force and effect as if such person had taken an oath in the usual form.

28. If any person making such solemn affirmation or declaration shall wilfully, falsely, and maliciously affirm or declare any matter or thing which, if the same had been sworn in the usual form, would

have amounted to wilful and corrupt perjury, every such person so offending shall incur the same penalties as by the laws and statutes of this colony are or may be enacted or provided against persons convicted of wilful and corrupt perjury.

29. If any person called to give evidence in any Court of Justice, whether in a civil or criminal proceeding, shall object to take an oath or shall be objected to as incompetent to take an oath, such person shall, if the presiding Judge is satisfied that the taking of an oath would have no binding effect upon his conscience, make the following promise and declaration :

“I solemnly promise and declare that the evidence given by me to the Court shall be the truth, the whole truth, and nothing but the truth.”

And any person who, having made such promise and declaration, shall wilfully and corruptly give false evidence, shall be liable to be indicted, tried and convicted for perjury, as if he had taken an oath.

30. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but he may, in case the witness shall in the opinion of the Judge prove adverse, contradict him by other evidence, or by leave of the Judge prove that he has made at other times a statement inconsistent with his present testimony ; but before such last mentioned proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made such statement.

31. If a witness, upon cross-examination as to a former statement made by him relative to the subject-matter of the cause and inconsistent with his present testimony, does not distinctly admit that he has made such statement, proof may be given that he did in fact make it ; but before such proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he has made such statement.

32. A witness may be cross-examined, as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the cause, without such writing being shown to him ; but if it be intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him : Provided that it shall be competent for the Judge,

at any time during the trial, to require the production of the writing for his inspection, and he may thereupon make such use of it, for the purposes of the trial, as he shall think fit.

33. A witness in any cause may be questioned as to whether he has been convicted of any felony or misdemeanor, and upon being so questioned, if he either deny the fact or refuse to answer, the opposite party may prove such conviction; and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction of such offence, purporting to be signed by the Clerk of the Court where the offender was convicted, or by the deputy of such clerk or officer, (for which certificate a fee of one dollar, and no more, shall be demanded or taken,) shall, upon proof of the identity of the person, be sufficient evidence of the said conviction, without proof of the signature or official character of the person appearing to have made the same.

34. It shall not be necessary to prove by the attesting witness any instrument to the validity of which attestation is not requisite; and such instrument may be proved by admission, or otherwise, as if there had been no attesting witness thereto.

35. Comparison of a disputed writing with any writing proved to the satisfaction of the Judge to be genuine, shall be permitted to be made by witnesses, and the evidence of witnesses respecting the same may be submitted to the Court and jury as evidence of the genuineness or otherwise of the writing in dispute.

36. Upon the hearing of any motion or summons, the Court or Judge may, at their or his discretion, and upon such terms as they or he shall think reasonable, from time to time order such documents as they or he may think fit to be produced, and such witnesses as they or he may think necessary to appear and be examined *viva voce*, either before such Court or Judge, or before the Master, and upon hearing such evidence or reading the report of such Master, to make such rule or order as may be just.

37. The Court or Judge may, by such rule or order, or by any subsequent rule or order, command the attendance of the witnesses named therein for the purpose of being examined, or the production of any writings or other documents to be mentioned in such rule or order, and such rule or order shall be proceeded upon in the same manner, and shall have the same force and effect, as a rule of the Court under the second section of this chapter; and the Court or Judge or Master may adjourn the examination from time to time, as occasion may require; and the proceedings upon such examination shall be conducted and

the depositions taken down in the mode now in use with respect to the *viva voce* examination of witnesses.

38. Any party to any civil action, or other civil proceeding, in any of the superior Courts, requiring the affidavit of a person who refuses to make an affidavit, may apply, by summons, for an order to such person to appear and be examined upon oath before a Judge or Master to whom it may be most convenient to refer such examination as to the matters concerning which he has refused to make an affidavit; and the Judge may, if he think fit, make such order for the attendance of such person before the person therein appointed to take such examination, for the purpose of being examined as aforesaid, and for the production of any writings or documents to be mentioned in such order, and may therein impose such terms, as to such examination and the costs of the application and proceedings thereon, as he shall think just.

39. Such order shall be proceeded upon in like manner as an order made under the second section of this chapter, and the examination thereon shall be conducted, and the depositions taken down and returned, as nearly as may be in the mode now used on *viva voce* examinations.

40. Upon the application of either party to any cause or other civil proceeding in any of the superior Courts, upon an affidavit by such party of his belief that any document to the production of which he is entitled for the purpose of discovery or otherwise, is in the possession or power of the opposite party, the Court or Judge may order that the party against whom such application is made, or, if such party is a body corporate, that some officer, to be named, of such body corporate, shall answer on affidavit, stating what documents he or they has or have in his or their possession or power relating to the matters in dispute, or what he knows as to the custody they or any of them are in, and whether he or they object, and if so, on what grounds, to the production of such as are in his or their possession or power; and upon such affidavit being made, the Court or Judge may make such further order thereon as shall be just.

41. In all causes in any of the superior Courts, by order of the Court or a Judge, the plaintiff may with the declaration, and the defendant may with the plea, or either of them by leave of the Court or a Judge may at any other time, deliver to the opposite party or his attorney (provided such party, if not a body corporate, would be liable to be called and examined as a witness upon such matter) interroga-

tories, in writing, upon any matter as to which discovery may be sought, and require such party, or in case of a body corporate any of the officers of such body corporate, within ten days, to answer the questions in writing by affidavit, to be sworn and filed in the ordinary way; and any party or officer omitting without just cause sufficiently to answer all questions as to which a discovery may be sought, within the above time or such extended time as the Court or a Judge shall allow, shall be deemed to have committed a contempt of the Court, and shall be liable to be proceeded against accordingly.

42. The application for such order shall be made upon an affidavit of the party proposing to interrogate and his attorney or agent, or, in the case of a body corporate, of their attorney or agent, stating that the deponents believe that the party proposing to interrogate, whether plaintiff or defendant, will derive material benefit in the cause from the discovery which he seeks, that there is a good cause of action or defence upon the merits, and, if the application be made on the part of the defendant, that the discovery is not sought for the purpose of delay: Provided that where it shall happen from unavoidable circumstances that the plaintiff or defendant cannot join in such affidavit, the Court or Judge may, if they or he think fit, upon affidavit of such circumstances by which the party is prevented from so joining therein, allow and order that the interrogatories may be delivered without such affidavit.

43. In case of omission without just cause to answer sufficiently such written interrogatories, the Court or a Judge, at their or his discretion, may direct an oral examination of the interrogated party, as to such points as he or they may direct, before a Judge or Master or Examiner; and the Court or Judge may, by such rule or order, or any subsequent rule or order, command the attendance of such party or parties before the person appointed to take such examination, for the purpose of being orally examined as aforesaid, or the production of any writings or other documents to be mentioned in such rule or order, and may impose therein such terms as to such examination and the costs of the application and of the proceedings thereon and otherwise as to such Court or Judge shall seem just.

44. Such rule or order shall have the same force and effect, and may be proceeded upon in like manner, as an order made under the second section of this chapter.

45. Whenever, by virtue of this chapter, an examination of any witness or witnesses has been taken before a Judge of one of the said

superior Courts, or before a Master or Examiner, the depositions taken down by such person shall be returned to and kept in the Clerk's office of the Court in which the proceedings are pending; and office copies of such depositions may be given out, and the depositions otherwise used, as the Court or Judge may direct.

46. Every Judge, Master, or Examiner, named in any such rule or order as aforesaid for taking examinations under this chapter, may, and he is hereby required to make, if need be, a special report to the Court in which such proceedings are pending, touching such examination, and the conduct or absence of any witness or other person thereon or relating thereto; and the Court may institute such proceedings and make such order upon such report as justice may require, and as may be instituted and made in any case of contempt of the Court.

47. The costs of every application for any rule or order to be made for the examination of witnesses by virtue of this chapter, and of the rule or order and all proceedings thereunder, shall be in the discretion of the Court or Judge by whom such rule or order is made.

48. Where a deed or document shall have been duly registered in pursuance of the laws of this colony, and the same shall, on the trial of any cause, suit or proceeding, be proved to be lost, such registry, or a certified copy thereof by the registrar, shall, without further proof, be admitted in evidence in all cases where the original if produced would be receivable.

CHAPTER 24.

COSTS ON THE COMMON LAW SIDE OF THE SUPREME COURT.

SECTION	SECTION
1—Taxable costs to be paid and recovered in all actions.	14—Costs in trespass or case, when less than \$8, recovered.
2—Plaintiff's costs.	15—Special jury.
3—Defendant's costs.	16—Suits in <i>forma pauperis</i> .
4—Costs of issue to follow the finding.	17—Set-off of damages or costs not to prejudice attorneys.
5—Costs on rules, costs in the cause.	18—Indemnification of revenue officers from costs not affected.
6—Costs in arrest of judgment.	19—Security for costs.
7—Defendant to have costs on neglect to try after notice.	20—Costs payable under rule of Court.
8—Costs on appeal.	21—Costs on writ of execution.
9—Costs in action by executors.	22—Notice of taxation.
10— <i>Nolle prosequi</i> .	23—Reference to schedule.
11—New trial.	
12— <i>Venire de novo</i> , when awarded.	
13—Jury, when discharged.	

1. In actions at law instituted in the Supreme Court, taxable costs shall be paid and recovered by the parties to such suits as follows:

2. A plaintiff who recovers final judgment for the whole or any part of his demand, whether of money, lands, or chattels, shall recover also the general costs of the cause, but subject to the restrictions hereinafter contained.

3. A defendant who recovers final judgment against the whole demand of the plaintiff, whether upon verdict, demurrer, non-suit, non-pros., *nolle prosequi*, discontinuance, or otherwise howsoever, shall recover also the general costs of the cause, but subject to the restrictions hereinafter contained.

4. The costs of any issue, either in fact or in law, shall follow the finding or judgment upon such issue, and be adjudged to the successful party, whatever may be the result of the other issue or issues, and may be set off against costs payable to the opposite party, or execution may issue for the same as in other cases.

5. On all rules of Court and Judge's orders, the costs shall be costs in the cause unless otherwise directed by the Court or Judge in making such rules or orders.

6. Upon an arrest of judgment, or judgment *non obstante veredicto*, the Court shall adjudge to the party against whom such judgment is given, the costs occasioned by the trial of any issues of fact arising out

of the pleading for defect of which such judgment is given, and upon which such party shall have succeeded, and such costs shall be set off against any money or costs adjudged to the opposite party, and execution may issue for the balance, if any.

7. If any plaintiff, having given the usual notice of trial, shall neglect to try his cause when called on, and the defendant be then ready to proceed to trial, the defendant shall be entitled to tax against the plaintiff all costs occasioned by such neglect, and may recover the same in manner prescribed in the preceding section.

8. Costs in a cause removed from an inferior Court, before and after removal shall follow the final event of the cause: Provided that where a cause so removed shall be sent back to the inferior Court for trial the party removing the same shall not be entitled to the costs incident to removal, notwithstanding he shall finally succeed in the suit.

9. In every action brought by an executor or administrator in right of the testator or intestate, he shall be liable to pay costs to the defendant in like manner as if he were suing in his own right.

10. Where a *nolle prosequi* shall have been entered upon any count, or as to part of any declaration, a defendant shall be entitled to and shall recover his reasonable costs in that behalf.

11. When a new trial is granted, the costs of the former trial shall be subject to the direction of the Court, as contained in the rule granting the new trial; and where no mention of costs is contained in the rule, each party shall pay his own costs of such former trial.

12. When a *venire de novo* is awarded, the costs of the former trial shall be subject to the order of the Court at the time of making such award.

13. When for any reason a jury shall be discharged without a verdict, each party shall pay his own costs of trial.

14. If the plaintiff in any action of trespass, or on the case, other than assumpsit, shall recover less damages than eight dollars, he shall not recover any costs unless the Judge before whom the trial shall have been had shall certify on the roll that the action was brought to try a right besides the mere right to recover damages for the trespass or grievance for which the action was brought, or that the trespass or grievance for which the same was brought was wilful and malicious; but nothing in this section shall be construed to deprive any plaintiff of costs in any action of trespass to lands or tenements in respect of which notice not to trespass thereon shall have been previously served

or left at the last place of abode of the defendant by or on behalf of the owner or occupier.

15. The party applying for a special jury shall bear the cost thereof, and shall not be entitled to any further allowance for the same upon taxation of costs other than he would have been entitled to had the cause been tried by a common jury, unless the Judge before whom the cause is tried shall certify upon the roll that the same was a cause proper to be tried by a special jury, and this provision shall apply as well to cases in which the plaintiff shall be non-suited before or after verdict as to cases in which a verdict shall pass against him.

16. A person admitted to sue *in forma pauperis* shall not in any case be entitled to costs from the opposite party, unless by order of the Court or a Judge.

17. No set-off of damages or costs between parties shall be allowed to the prejudice of the attorney's lien for costs in the particular suit against which the set-off is sought : Provided nevertheless that interlocutory costs in the same suit awarded to the adverse party may be deducted.

18. Nothing in this chapter contained shall affect the provisions of any act relating to the revenue providing for the indemnification of officers of her Majesty's Customs from costs in certain cases.

19. Security for costs may, in the discretion of the Court or a Judge, be ordered to be given by the plaintiff or by a defendant in replevin in the following cases, namely : where such plaintiff or defendant in replevin resides beyond the jurisdiction of the Court ; where a plaintiff or such defendant is an uncertified bankrupt or insolvent, or becomes a bankrupt or insolvent, during the pendency of the suit, or where he has assigned his property for the benefit of his creditors ; and in a second ejectment for the same premises against the same defendant, or one defending under the former defendant, and by the same plaintiff or one claiming through him, where the first action shall have been unsuccessfully brought ; and such security may be ordered, with or without a stay of proceedings, or with such other conditions as to the said Court or Judge may seem just.

20. Costs payable under rule of Court or Judge's order may be recovered by process of contempt, the Judge's order being first made a rule of Court ; all other interlocutory costs by set off, or judgment and execution, as in ordinary cases.

21. Upon a writ of execution, the costs of executing such writ, and also the costs of other ineffectual writs of execution, may be levied in addition to the amount of the judgment.

22. One day's notice of taxing costs, with copies of the bill of costs, shall be given by the attorney of the party whose costs are to be taxed to the other party or his attorney: Provided that such notice shall not be necessary to a defendant who has not appeared.

23. The costs enumerated in the schedule annexed shall be those payable in the said Court between party and party, in cases where such charges shall be applicable: Provided that as between attorney and client the usual and reasonable fees for retainer and other matters may be taxed by the officer of the Court, and such taxation shall (subject to revision by the Court) be binding upon the client and attorney; and such notice of taxation shall be given by either attorney or client as is provided by section twenty-two.

SCHEDULE.

FEEs TO BE TAKEN BY ATTORNEYS IN THE SUPREME COURT.

Warrant of attorney	\$0.75
Notice of action... ..	0.75
Every process—whether original, mesne or final	0.75
Copies, each	0.25
Declaration	1.50
Copies, each	0.75
Entering appearance	0.75
Interlocutory judgment by default	0.75
General issue and joinder of issue, each	0.75
Special plea	1.50
Copies, each	0.75
Every subsequent pleading	1.50
Copies, each	0.75
Affidavit of debt	0.75
Affidavit of service	0.25
Special affidavit, according to necessary length	\$0.75 to 1.50
Every necessary notice, account or other paper	0.75
Every rule of Court or Judge's order	0.75
Copies, each	0.25
Issue roll	1.50
Every necessary suggestion	1.50
Postea and judgment.....	1.50
Demurrer book... ..	1.50
Every additional copy for Judges... ..	0.75
Every necessary attendance on a Judge.....	1.50
Attendance to tax costs... ..	1.50
Every necessary attendance before the Master or an arbitrator	1.50
Cognovit	1.50
Warrant of attorney and entering up judgment thereon, where no process has been issued.....	5.00

Counsel fee on every necessary motion or argument—such as for a commission, or for a postponement of trial, and such like \$2.50

COUNSEL FEE WITH BRIEF, IN ACTIONS EX CONTRACTU.

In matters over fifty dollars	2.50
In matters over one hundred dollars	5.00
In matters over two hundred dollars	10.00
In matters over four hundred dollars	15.00

Or such further fee, not exceeding in all twenty-five dollars, as the Master may consider reasonable, having regard to the amount sought to be recovered and the difficulty and length of the case.

In actions *ex delicto* the counsel fee may vary from five dollars to twenty-five dollars, according to the difficulty and importance of the case.

A brief fee for a junior counsel may be taxed in cases of importance.

Where the cause extends over one day the Court may increase the brief fee as it may consider reasonable.

Counsel fee on special argument, five dollars to fifteen dollars, according to the difficulty and importance of the cause.

Subpcena tickets,	0.25
Attendance to draw and strike a special jury, each ..	1.50
Attendance on examination of witnesses <i>de bene esse</i> , each	2.50
Drafting interrogatories or cross-interrogatories on a commission, according to their length and difficulty	\$2.50 to 10.00
Copies, each.....	1.50
Commission to examine witnesses	3.00
Settling a special case.....	2.50 to 5.00
Copies for Judges, each.. ..	1.50
Filing every necessary paper	0.25

In summary cases, *ex contractu*, where the amount *bona fide* sought to be recovered shall not exceed fifty dollars, no greater amount than four dollars in all shall be taxed as attorney's costs between party and party, unless the Court shall order differently.

ALLOWANCE TO WITNESSES.

Ordinary witnesses, each, per diem	0.75
Professional men	2.50
Surveyors, architects and skilled witnesses ..	1.00

And reasonable expenses actually incurred and authenticated by proper accounts and vouchers.

CLERK'S FEES.

Every process except subpcena.....	0.50
Writs of subpcena, each	0.25
Every verdict.....	0.50
On signing final judgment	0.50
Rule of Court	0.25
Every affidavit	0.25

Every search	....	....	....	....	\$0.25
Every certificate	....	....	....	....	1.00

COMMISSIONER'S FEES.

Drawing and swearing affidavit	..	....	....	....	1.00
Administering oath on affidavit previously prepared.		....			0.25
For every writ	....	....	....	....	1.00
For every witness examined	....	....	....	....	2.50

SHERIFF'S AND PROCESS SERVER'S FEES.

Service of each copy of original writ	....	....	....	0.50
Every arrest	....	....	....	2.50
Return to an attachment or <i>capias ad respondendum</i>		....		0.75
Bail bond	....	....	....	1.00
Drawing, summoning and returning special jury	....		....	4.00
Necessary travelling to serve or execute process, per mile	....	....	....	0.25
Poundage on attachment if moveables, and on levies if moveables, five per cent. on the first five hundred dollars, and two-and-a-half per cent on all over that amount.				
Executing a writ of possession	....	....	....	2.50
Fee on every jury sworn	....	....	....	1.00
Service of subpoena	....	....	....	0.25
And reasonable expenses necessarily incurred in the removal and safe custody of property, to be verified by proper vouchers.				
Every warrant of attachment	....	....	....	0.25
Executing a writ of partition	....	....	....	5.00
No fee shall be paid to the Sheriff of the central district on a special deputation.				

The following fees shall be allowed in cases of replevin :

Warrant to replevy	....	....	....	0.50
Replevin bond	....	....	....	1.00
Mileage per mile, going and returning	....	....	....	0.12

JURORS.

Jurors on writ of partition, each	....	....	....	2.00
Special jurors, each	....	....	....	1.00
Petty jurors, each	....	....	....	0.50
Petty jurors in assessments under two hundred dollars, each	..			0.25

CHAPTER 25.

PROCEEDINGS IN THE NATURE OF INTERPLEADER.

SECTION

- 1—Commencement of proceedings.
- 2—Judgment and decision final.
- 3—Provision for case of third party not appearing.
- 4—Power to decide summarily.
- 5—Special cases may be stated.
- 6—Proceedings on claims to property attached, &c.

SECTION

- 7—Sale may be directed.
- 8—Orders to be entered of record.
- 9—Rehearing.
- 10—Judge's order may be rescinded or altered.
- 11—Judge may refer matter to the Court. Schedule.

1. Upon application made by or on behalf of any defendant, sued in the Supreme Court in any action of assumpsit, debt, detinue, trover or case, such application being made after declaration and before plea, or under special circumstances after plea, by affidavit or otherwise, shewing that such defendant does not claim any interest in the subject-matter of the suit, but that the right thereto is claimed or supposed to belong to some third party who has sued or is expected to sue for the same, and that such defendant does not in any manner collude with such third party, but is ready to bring into Court or to pay or dispose of the subject-matter of the action in such manner as the Court or a Judge may order or direct, the Court or a Judge may make rules and orders calling upon such third party to appear and state the nature and particulars of his claim, and to maintain or relinquish his claim; and upon such rule or order hear the allegations as well of such third party as of the plaintiff, and in the meantime stay the proceedings in such action, and finally order such third party to make himself defendant in the same or some other action, or to proceed to trial upon one or more feigned issue or issues, and also direct which of the parties shall be plaintiff or defendant on such trial; or with the consent of the plaintiff and such third party, their counsel or attorneys, dispose of the merits of their claims and determine the same in a summary manner, and make such other rules and orders therein as to costs and all other matters as may appear to be just and reasonable.

2. The judgment in any action or issue, but subject to such right of appeal and the decision of the Court or a Judge in a summary manner, or upon a case stated under this chapter, shall be final and conclusive against the parties and all persons claiming by, from or under them.

3. If such third party shall not appear upon such rule or order to maintain or relinquish his claim, being duly served therewith, or shall neglect or refuse to comply with any rule or order to be made after appearance, the Court or a Judge may declare such third party, and all persons claiming by, from, or under him, to be for ever barred from prosecuting his claim against the original defendant, his executors or administrators, saving, nevertheless, the right or claim of such third party against the plaintiff; and thereupon make such order between such defendant and the plaintiff as to the costs and other matters as may appear just and reasonable.

4. Upon the hearing of any rule or order calling upon persons to appear and state the nature and particulars of their claims, the Court or a Judge may, wherever from the smallness of the amount in dispute, or of the value of the goods seized, it shall appear desirable and right so to do, at the request of either party, dispose of the merits of the respective claims of such parties, and determine the same in a summary manner upon such terms as they or he shall think fit to impose, and make such other rules and orders therein as to costs and all other matters as may be just.

5. In all cases of interpleader proceedings, where the question is one of law, and the facts are not in dispute, the Court or a Judge may at discretion decide the question without directing an action or issue; and such Judge, if he think it desirable, may order that a special case be stated for the opinion of the Court.

6. When any claim shall be made to any lands or chattels, goods, debts, or effects, or to the proceeds thereof, attached or levied on, or intended to be attached or levied on, by process of attachment or execution, or when, upon the examination of a garnishee, a substantial doubt shall arise as to the right to the property attached in his hands, the Court or a Judge may, upon the application of the Sheriff, or of any person making such claim, or of its or his own motion, before or after the return of such process, and before or after any action brought against such Sheriff, call before it or him by any order or rule as well the party issuing such process as the party making or appearing to have a claim, and also such Sheriff or garnishee, and thereupon exercise, for the adjustment of such claims and the relief and protection of such Sheriff or other person, all or any of the powers or authorities herein contained, and make such rules, orders and decisions as shall appear to be just, and the costs of all such proceedings shall be in the discretion of the Court or Judge.

7. When goods or chattels have been attached or have been seized in execution by a Sheriff or other officer under process of the Court, and some third person claims to be entitled under a bill of sale or otherwise to such goods or chattels by way of security for a debt, the Court or a Judge may order a sale of the whole or part thereof, upon such terms as to the payment of the whole or part of the secured debt, or otherwise, as it or he shall think fit, and may direct the application of the proceeds of such sale in such manner and upon such terms as to such Court or Judge may seem just.

8. All rules, orders, matters and decisions to be made and done in interpleader proceedings under this chapter (excepting only affidavits), may, together with the declaration in the cause, if any, be entered of record, with a note in the margin expressing the true date of such entry; and every such rule or order so entered shall have the force and effect of a judgment of the said Court; and thereafter execution, as of course, and with the like effect as in other cases, may issue at any time to enforce performance of or obedience to such judgment and the payment of the costs under the same, substantially according to the forms in the schedule hereto.

9. Every order made in pursuance of this chapter by a single Judge not sitting in open Court, shall be liable to be rescinded or altered by the Court in like manner as other order made by a single Judge.

10. If upon application to a Judge in the first instance, or any later stage of the proceedings, he shall think the matter more fit for the decision of the Court, he may refer the matter to the Court, and thereupon the Court shall hear and dispose of the same in the same manner as if the proceeding had originally commenced by rule of Court instead of by the order of a Judge.

11. Either of the parties to any such proceeding as aforesaid may have a case that has been heard or determined by one Judge reheard by two or more Judges, subject to such orders as to costs as they may make.

SCHEDULE.

No. 1.

CAPIAS.

Victoria, by the Grace of GOD, of the United Kingdom
of Great Britain and Ireland, Queen, Defender of
the Faith, &c., &c.

(L. S.)

To the Sheriff of

greeting :

We command you that you take A. B., if to be found within your bailiwick, and him safely keep, so that you have his body before us in our Supreme Court, to satisfy (or, if for a specific sum of money, or for costs only) \$, payable under a judgment in interpleader of the said Court, which C. D. lately recovered in our said Court against the said A. B., and have you then there this writ.

Witness, &c., &c.

No. 2.

FIERI FACIAS.

(To be used in cases in which a specific sum of money or costs may be recoverable.)

(L. S.)

Victoria, by the Grace of GOD, &c.

To the Sheriff of

greeting :

We command you that of the goods, lands, chattels and effects of A. B., in your bailiwick, you cause to be made \$ due under a judgment in interpleader which C. D. lately in our Supreme Court recovered against the said A. B., and have you then there this writ.

Witness, &c., &c.

CHAPTER 26.

OF THE RECOVERY OF PENALTIES BECOMING DUE UPON THE FORFEITURE OF CERTAIN RECOGNIZANCES.

SECTION

- 1—Rule *nisi* to declare recognizances forfeited, and further proceedings.
- 2—Justice may return forfeited recognizance to Supreme Court.

SECTION

- 3—Court may submit question to jury.
- 4—Order for payment may be enforced by attachment.
Schedule.

1. Whenever any recognizance returned into or given to the Supreme Court shall become forfeited by breach of the condition thereof, the Court may, by a rule *nisi*, to be made upon sufficient affidavits, shewing the execution and forfeiture of such recognizance, and to be served upon such of the parties executing the same as shall be within the jurisdiction of the Court, require such parties to shew cause why the said recognizance should not be declared to be forfeited, and the amount of the penalty thereof paid by them; and thereupon, after hearing the parties to such rule, or such of them as may appear upon the same, or in default of appearance, make an order pronouncing such recognizance forfeited, and directing the payment into Court of the

penalty thereof by the parties liable, or discharging such rule *nisi*, as may be lawful in that behalf: Provided that the Court, upon sufficient special cause, may, if they shall see fit so to do, lessen or altogether remit the amount of such penalty.

2. When any recognizance for the doing or not doing of any matter or thing, other than the appearance of any person before the Supreme Court aforesaid, and made to any Justice or Court of Session, shall become forfeited, such Justice, or in case of his death or incapacity, any other Justice of the district or the Clerk of Peace or the Court of Session, as the case may be, may make return of such recognizance, and of the forfeiture thereof, under his hand and seal, in the form substantially in the schedule annexed, to the Supreme Court, and thereupon the like proceedings shall be had for declaring the forfeiture of such recognizance and for the recovering of the penalty as are hereinbefore directed in other cases.

3. The Court in which any such rule *nisi* shall be pending, may, in any case wherein the recognizance is conditioned for the performance of any act not to be done in or before or to such Court, should they consider it expedient for the ends of justice and the discovery of the truth, submit any question in controversy upon such rule *nisi* to the determination of a jury, in like manner as if such question came before the Court upon a special case; and after such determination such further order shall be made by the Court as hereinbefore directed.

4. Every such order for the payment in whole or in part of any such penalty, shall be enforced by the Court making the same by process of contempt and by attachment of the property of the party liable in that behalf. The form of such process and attachment shall be as prescribed in the schedule annexed, and the amount levied thereunder shall be paid over by the Court to the Receiver General for the use of the colony.

SCHEDULE.

I, G. H., of one of Her Majesty's Justices of the Peace
for the district of Newfoundland, do hereby certify and
return unto the honorable the Supreme Court that the recognizance
hereto annexed, marked by me, was on or about the taken
before and that the same has become forfeited by breach of
the condition thereof by X. Y., therein named.

Given under my hand and seal at this
day of 18

(Signed)

G. H. (L. S.)

(If the return be made by any other than the Justice before whom the recognizance was entered into, or the breach of condition occurred, or was shewn, let the words "all which is satisfactorily proven to me," be added after the word "named.")

FORM OF ATTACHMENT OF THE PERSON FOR CONTEMPT OF ORDER OF COURT.

(L. S.) Victoria, by the Grace of GOD, of the United Kingdom
of Great Britain and Ireland, Queen, Defender of
the Faith, &c.; &c.

To the Sheriff of greeting :

We command you that you arrest A. B., of &c., and him
commit to prison, there to remain until he shall have paid into the
Supreme Court the sum of in obedience to the order of our
said Court, dated or until he be discharged in due course of
law.

Witness the honorable Justice of our Supreme Court of
Newfoundland, at this day of (date of issuing.)

By the Court,

M. W. W., C. C. & R.

FORM OF ATTACHMENT OF PROPERTY.

(L. S.) Victoria, by the Grace of GOD, &c.

To the Sheriff of greeting :

We command you, that of the property of A. B., of &c., you
cause to be made dollars, which the said A. B. was, by order
of our Supreme Court, dated ordered to pay into our said
Court; and the amount levied you pay over to the Chief Clerk of our
said Court, to abide the order of the said Court herein.

Witness the honorable Justice of our Supreme Court of
Newfoundland, at this day of (date of issuing.)

By the Court,

M. W. W., C. C. & R.

CHAPTER 27.

OF THE ESTATES OF INFANTS AND PERSONS OF UNSOUND MIND.

SECTION

1—Court may order sale of real estate, &c., of infants.

2—Effect of conveyance by guardian, &c. Report.

SECTION

3—Appropriation of proceeds.

4—Interest of infants in proceeds.

5—Conveyances to be presumptive evidence that proceedings were rightly had.

1. An infant entitled to real estate or chattels real, may, by his next friend or guardian, petition the Court for an order to sell or dispose of the said property, and the said Court shall proceed in a summary way, on affidavit, to enquire into the merits of such application; and if the disposal of such property, or any part thereof, be necessary for the support of such infant, or for his education furnished or to be furnished, or if the interests of the infant will be substantially promoted by such disposal on account of any part of the said property being exposed to waste or dilapidation, or being wholly unproductive, or for any other reasonable cause, the Court may, on the filing of a bond by such guardian or next friend, or other person approved of by the Court, in case he be not already a lawfully appointed guardian, with such sureties, in such form, and on such terms and conditions as shall be directed, order the letting for a term of years, the sale, mortgage or other disposal of such property, whether possessory or reversionary, by such guardian or next friend, in such manner and with such restrictions as shall be deemed expedient, but not in any case contrary to any last will or conveyance by which such property was devised or conveyed to such infant, unless where the support or maintenance of the infant shall have required or shall then require it, and it shall be so expressed in the order.

2. All sales, leases, mortgages, or conveyances, made in good faith by any guardian or next friend, in pursuance of such order, shall be as effectual as if made by such infant after he had attained the age of twenty-one years; and it shall not be necessary, in the conveyance, to recite any part of the proceedings required by this chapter, but the same shall briefly refer to the order and the sale, leasing, or other disposal of such property. The party making the sale shall file a report thereof with the Chief Clerk and Registrar of the Court.

3. Upon any order for the sale of any property being made as afore-

said, the Court may make such order for the investment, disposal and application of the proceeds of such property, and of the increase and interest arising therefrom, as shall secure the same for the infant's benefit.

4. No sale made as aforesaid shall give to any such infant any other or greater interest or estate in the proceeds of such sale than he had in the estate so sold.

5. Every conveyance made under the foregoing provisions, and registered in the office of registration for the district in which the lands lie, shall be taken as presumptive evidence that all the proceedings on which the same is founded were rightly had.

CHAPTER 28.

OF PROCEEDINGS IN EQUITY.

SECTION

- 1—Suit to commence by bill in form of petition.
- 2—Mode of service.
- 3—Time for filing answer.
- 4—Service of subsequent proceedings on agent or partner of non-resident defendant.
- 5—Exceptions to answer for insufficiency.
- 6—Exceptions to be set down for argument.
- 7—Defendant to have four days to put in further answer.
- 8—Further exceptions allowed.
- 9—Complainant to file replication within two days.
- 10—Examinations of witnesses, how taken.
- 11—Publication of evidence.
- 12—Briefs to be furnished Judges.
- 13—Proceedings on defendant pleading or demurring.
- 14—Proceedings when plea or demurrer overruled.
- 15—Proceedings where issue taken on plea.
- 16—Bills to be verified by affidavit.
- 17—Attachment or *capias* may issue.
- 18—Master to proceed upon receiving two days' notice.

SECTION

- 19—Master may make separate reports.
 - 20—Master shall deliver copies of his report to any party applying for the same.
 - 21—Order to confirm report.
 - 22—Exceptions to Master's report.
 - 23—Death or marriage of either party to suit.
 - 24—Judgment of the Court in special cases, how obtained.
 - 25—Re-hearing.
 - 26—Rules nisi shall have four days to run.
 - 27—Time may be extended for any proceeding.
 - 28—Final decree.
 - 29—Under *fieri facias* Sheriff may levy on moneys, &c., &c.
 - 30—Costs on *fieri facias* or *capias*.
 - 31—Attachment for contempt.
 - 32—Execution of deeds by Master in foreclosure and other cases.
 - 33—Judges of the Supreme Court may make rules.
 - 34—Judges may make rules for circuit practice.
- Schedule.

1. A suit in equity in the Supreme Court shall be commenced by filing therein a bill, in form of a petition, setting forth briefly and concisely the complainant's case, putting such interrogatories as may

be thought necessary, and praying such relief as may be suitable; on which bill shall be endorsed one or other of the notices in the schedule annexed.

2. A copy of such bill and notice shall be served either personally upon the defendant, or upon the agent or partner (if any such within the colony) of any absent or non-resident defendant, or personally abroad upon any absent or non-resident defendant who shall not have an agent or partner within the colony, or in such manner as a Judge or the Court may direct in the case of an absent or non-resident defendant not having an agent or partner in the colony, and whose residence cannot be discovered.

3. The defendant shall, within the period of ten days after such service if made within the central district, and within fourteen days if such service be made in any other part of the colony; and within such time as may be fixed by a Judge if such service be made abroad, put in an appearance and file and serve a plea, demurrer or answer to such bill; and unless the defendant shall appear and plead, answer or demur, as aforesaid, within such time, or within such further time, if any, as may be allowed by a Judge or the Court in that behalf, the complainant may, upon filing proof on oath of such service, enter an appearance for such defendant, and take an order of course that such bill be taken as confessed.

4. In case of any absent or non-resident defendant having an agent or partner in the colony, not appearing by attorney, service, where necessary, of all subsequent proceedings shall be made on such agent or partner; and in case of any absent or non-resident defendant not having an agent or a partner within the colony, neglecting to appear by attorney to a bill served in manner aforesaid, service of all subsequent proceedings, when necessary, shall be made upon the Clerk of the Court for him.

5. Exceptions to an answer for insufficiency shall be allowed only to the answer of an absent or non-resident defendant; and in such case they shall be filed and served within four days after the answer shall have been put in.

6. If such exceptions are not submitted to within four days, they may be set down for argument by either party before the Court or a Judge.

7. If such exceptions are submitted to within four days, or if upon argument as aforesaid they are in whole or in part sustained, the defendant shall have four days in which to put in a further answer.

8. Exceptions to such further answer may be taken and submitted to, or demurred to, within the times and in manner aforesaid; and if such exceptions are in whole or in part submitted to or sustained, upon argument by the Court or a Judge as aforesaid, the complainant may have an order of course that in the particulars rightly excepted to his bill shall be taken as confessed, unless the Court or a Judge, upon special application, shall otherwise order.

9. Where exceptions are not or cannot be taken, or are overruled, or where, in the matter of any exception taken, a part of the bill only is taken as confessed, the complainant shall, within two days from the last step in the cause, put in a general replication, otherwise the cause shall stand for hearing on bill and answer.

10. On a general replication being put in, the cause shall be deemed at issue, and the parties may proceed to examine their witnesses before an examiner to be appointed either by consent or on motion to the Court or a Judge; and such examination shall, except when the Court or a Judge shall direct a commission to issue, be *viva voce*, in presence of the parties or their attorneys, before such examiner, or, if the Court or a Judge shall so order, in open Court.

11. Publication of evidence shall pass upon rules or Judge's orders *nisi* and absolute, upon motion of either party; and after publication the cause may be set down for hearing by either party to the cause.

12. At the hearing of the cause, unless the parties can agree on a case to be submitted to the Court, each party shall furnish the Judges and the opposite party with a brief setting forth the substance of the proceedings and proof and the decree sought to be obtained by him.

13. When the defendant pleads or demurs to a bill, the complainant shall have four days to reply or to amend his bill, unless further time be granted; and if he does not take issue on such plea, or amend his bill within that time, either party may set down a plea or demurrer for argument at the next or any subsequent sitting of the Court.

14. If a plea or demurrer be overruled on argument, or if upon issue joined thereon a plea be found to be untrue, the complainant may have an order of course that the defendant do file and serve an answer within four days, otherwise that the bill, or so much thereof as may be covered by such plea or demurrer, be taken as confessed.

15. When issue is taken upon a plea, the proceedings for proof, publication and hearing, shall be as in the case of an answer and replication.

16. All bills shall be verified by affidavit, and all pleas in bar in mat-

ters in pais, and all answers, shall be upon oath of the party, unless the Court or a Judge shall upon cause shewn otherwise order.

17. The Court or a Judge thereof, upon special cause to be shown on affidavit, may order a writ of attachment or *capias* to issue at any stage of the cause, in the form prescribed in the schedule, and such attachment or *capias* shall not be discharged, except by like order of the Court or Judge, until the defendant shall have given bail to the satisfaction of the Court or Judge, or a commissioner of such Court, to abide by and perform the orders and decrees of the Court to be from time to time made in such cause.

18. When any matter is referred to a Master to examine and report upon, the Master shall proceed therein at the instance of either party upon a notice of two days, adjourning from time to time as may be necessary.

19. The Master may, upon the application of any party interested, make a separate report or reports from time to time as he shall deem expedient, the costs of such separate reports to be in the discretion of the Court.

20. When the Master has prepared the draft of his report, he shall, upon matters of importance, deliver copies thereof to any party applying for the same, and shall assign a time and place for the parties to bring in objections and hear arguments thereon; and the Master shall settle and sign his report, and cause it to be filed in the office of the registrar of the Court, within four days after the argument on such objections is closed. If no objections are made to the draft the Master shall sign and file it forthwith.

21. After the report is filed, either party may have an order of course to confirm the same, unless cause to the contrary thereof be shown in four days; and if no exceptions are served and filed within that time, the order may be made absolute of course, upon filing an affidavit of service of the order nisi; or either party may file exceptions to part, and have such order nisi to confirm the report so far as the same is not excepted to, and with the like effect.

22. Exceptions to a Master's report may be set down for hearing by either party, and after such report shall have been confirmed, either party may, from time to time, as may be necessary, bring the cause on for further directions.

23. If any suit shall abate in whole or in part by the death or marriage of any party thereto, the representative or husband of such party, if a complainant, and the complainant if the party deceased is defend-

ant, may apply to the Court by petition, (to be verified, filed and served, in the manner aforesaid,) that such representative or husband be made a party to such suit; and thereupon, unless an answer shall be put in within the times aforesaid, denying the matters upon which such petition is founded, (in which case the points at issue shall be tried and determined as upon enquiry into the truth of a plea, and such order made thereon as may be just,) the petitioner may have an order of course that such petition be taken as confessed, and that such suit, as respects such husband or representative, do stand revived in like manner and to the effect as in case of a decree for revivor.

24. Any parties (the direction of the Court or a Judge thereof in case of persons under disability, as hereinafter mentioned, being first obtained) may present a petition to the Court, stating any documents, facts or circumstances, relating to any matter falling within the equity jurisdiction of the Court, by way of special case, and praying for the opinion of the Court thereon; and the Court may give judgment upon such petition accordingly, and such judgment shall bind all such persons as the Court shall direct, and in default of such direction shall bind all such persons as presented the same, and shall have the same effect as a declaration made by decree in a suit to which such persons were parties would have had, and shall be subject to re-hearing in the same manner as herein provided in case of other petitions under this chapter; and where the opinion of the Court is desired in any matter in which any infant, idiot, lunatic, or married woman is interested, the Court, or a Judge thereof, may direct the presenting of such petition by way of special case, on behalf of the infant, idiot, lunatic, or married woman, and such directions shall be conclusive to all intents and purposes.

25. Any party in the cause may have a re-hearing upon any judgment, order or decree therein, upon applying for the same by petition to the Court, or a Judge, within twenty days after the same shall have been pronounced, and upon notice to the adverse party, on such terms as to costs, as to the payment into Court of any money, as to the doing or not doing of any particular act, or as to giving security for the performance of such judgment, order or decree, as such Court or Judge shall direct.

26. All rules to take effect *nisi*, unless otherwise specially directed, shall be four days, and the time on all proceedings shall be taken to be one day inclusive and the other exclusive; but if the time expire on a Sunday, the whole of the succeeding day shall be included; four

days' notice shall be given of all hearings and special motions, and a copy of the petition, affidavit or certificate, on which any special application is founded, shall be served upon the adverse party, with a notice thereof.

27. The Court or a Judge, upon cause shown, may extend the time for any proceeding required by this chapter or by any rule of Court to be done within a limited time, and may set aside any order or decree obtained by default, upon such terms as may be equitable.

28. The final decree in any cause shall be made up in the manner, and enforced by one or more of the writs of execution, prescribed in the schedule.

29. Under *fieri facias* issued upon any such decree, the Sheriff may levy on moneys, bank notes, bills of exchange, cheques, bonds, or other securities for money, and attach and sell any interest of the party against whom such process shall have issued, as well equitable and contingent as legal and vested, in any lands, and attach, by warrant, debts or effects due or belonging to such party; and for the purpose of realizing any chose in action or other property levied on or attached as aforesaid, or under an attachment for bail, the Court or a Judge may examine upon oath, and *viva voce*, any garnishee in whose hands money or property may be attached, and direct and (if necessary) enforce by process of contempt, the payment or delivery over to the complainant or the Sheriff of so much of such money or property as may be sufficient to satisfy such execution; and the Sheriff, when he shall have levied or attached any bill, note, cheque, bond, or other security, may recover by action the amount thereof from the debtor, in the name of the Sheriff, and appropriate the same, or so much as may be necessary, in manner aforesaid, (the party issuing such process first indemnifying the said Sheriff against all costs by reason of such action,) and sell any property delivered to him as aforesaid for the like purpose.

30. Upon *fieri facias* or *capias* for money or costs, the Sheriff shall levy for the costs of such writ and levy, in addition to the money or costs ordered to be paid.

31. No attachment for contempt shall issue against a defendant or other party for breach of an injunction in any decree commanding or restraining the performance of any act, other than the payment of money, except upon a rule of Court or Judge's order to be issued upon affidavit of service upon such defendant, or party, or his attorney, partner or agent, or upon the clerk of the Court, as aforesaid, of a copy of

such injunction, and upon sufficient proof of such breach having been committed.

32. In cases for foreclosure of mortgages, and in all other cases in which the execution of any deed or conveyance shall be necessary or shall be ordered by the Court, the Court or a Judge may in its or his discretion by rule or order direct the chief clerk or a Master in Chancery or other person to execute any such deed or conveyance, and such deed or conveyance when so executed shall be of the same force and effect as if it were executed by the party who but for this enactment might be compelled to execute the same.

33. The Judges of the Supreme Court, by rules to be by them from time to time made and published for three months in the *Royal Gazette*, may regulate the equity practice of the Supreme Court in matters not herein or already provided for; and in matters not provided for by the said rules, or by this chapter, the practice of the High Court of Chancery in England shall, so far as the same may be applicable, be the practice of the said Court.

34. The Judges of the Supreme Court, from time to time may, by orders for the purposes of circuit practice, make such alterations in the equity practice and forms prescribed by this chapter as may be expedient for facilitating proceedings in equity on circuit, which orders shall be published in the *Royal Gazette*, and have the force of law.

SCHEDULE.

FORM OF NOTICE TO BE ENDORSED ON BILLS WHERE DEFENDANT IS
RESIDENT IN OR HAS A PARTNER OR AGENT IN THE COLONY.

A. B., complainant and C. D., defendant.	Supreme Court, In Equity.
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To the above named defendant.

You are required to appear and to plead, demur, or answer, to this bill within (ten days) after service thereof on you (or as ordered), and in default of your so doing, the matter therein set forth will be taken to be confessed by you, and judgment will be delivered against you accordingly.

St. John's,	18
E. S., complainant's solicitor.	

(If the bill be served abroad, add, after the word "accordingly," "you are also required, unless you appear by attorney, to appoint some person resident in Newfoundland, as your agent in this suit, and to notify

such appointment to the complainant's solicitor; in default whereof service of all subsequent proceedings therein will be made on the chief clerk of this Court to serve in your behalf.")

FORM OF CAPIAS OR ATTACHMENT FOR BAIL.

NEWFOUNDLAND }
s. s. }

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To the Sheriff, &c.

Attach C. D. of &c., (if a *capias*, say—"so that you have his body before us in our Supreme Court, and him safely keep"; or, if an attachment, say—"by his lands, chattels, goods, debts and effects, and hold the same") until he shall have given bail to perform the orders and decrees of this Court, in a cause on the equity side of the said Court, wherein A. B. is complainant and the said C. D. is defendant, or until discharged by due course of law; and make return of what you shall have done under this writ immediately after the execution thereof.

Witness the honorable Chief Justice of the Supreme Court, at St. John's, this (date of issue.)

By the Court,

G. H., C. C. & R.

E. S., complainant's solicitor.

FORM OF ATTACHMENT FOR NON-PAYMENT OF MONEY OR COSTS, FOR BREACH OR NON-PERFORMANCE OF AN ORDER OR DECREE.

NEWFOUNDLAND, }
St. John's, s. s. }

To the Sheriff, &c.

We command you that you attach E. D. of &c., and him commit to safe custody (until he shall have paid A. B. the sum of \$ which by our Supreme Court was ordered to be paid by the said E. D. to the said A. B., by a decree dated and made in a cause on the equity side of the said Court wherein the said A. B. is complainant and the said C. D. is defendant, or until he shall have conformed to the said decree, reciting it as above) unless the said C. D. shall be sooner discharged from your custody by due course of law; and make return of what you shall have done under this writ immediately after the execution thereof.

Witness the honorable Chief Justice of our Supreme Court, at St. John's, Newfoundland, this (date of issue.)

By order of the Court,

G. H., C. C. & R.

E. S., complainant's solicitor.

FORM OF FIERI FACIAS FOR MONEY ORDERED TO BE PAID, OR COSTS.

NEWFOUNDLAND, }
 St. John's, s. s. }

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To the Sheriff, &c.

We command you that of the goods and chattels, debts, property, and effects of C. D., of &c., you cause to be made and paid over to A. B. the sum of \$ which by a decree made on the equity side of our Supreme Court and dated in a cause wherein the said A. B. is plaintiff and the said C. D. is defendant, was ordered by our said Court to be paid by the said C. D. to the said A. B., and make return of what you shall have done under this writ immediately after the execution thereof.

Witness the (as before, and the date of issue.)

By the Court,

G. H., C. C. & R.

E. S., complainant's solicitor.

FORM OF WRIT OF POSSESSION.

NEWFOUNDLAND, }
 St. John's, s. s. }

Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c.

To the Sheriff, &c.

We command you that (by notifying all parties legally in occupation in that behalf) you put A. B. into possession of the rents and profits of all those lands situate, &c., (as in decree,) which by a decree dated and made on the equity side of our Supreme Court, wherein the said A. B. is complainant and the said C. D. is defendant, the said C. D. was ordered to deliver up or assign over (as the case may be) to the said A. B., and that you levy of the goods and chattels of the said C. D. the sum of \$ the costs of the execution of this writ, and make return of what you shall have done under this writ immediately after the execution thereof.

Witness the honorable Chief Justice of our Supreme Court, at St. John's, Newfoundland, this (date of issue.)

By order of the Court,

G. H., C. C. & R.

E. F., claimant's solicitor.

FORM OF FINAL DECREE.

Supreme Court,
 In Equity.

NEWFOUNDLAND, }
 St. John's, s. s. }

day of A. D., 18

A. B. of St. John's, yeoman, filed his bill in this Court against C. D.

of &c., and therein, after alleging (state substance of bill as briefly as possible) prayed (here set forth substantially the prayer of the bill) and on the day of 18 the said C. D. filed his answer to the said bill, (or if the fact be so, say "by order dated the said bill being taken as confessed;") and on this day of 18 the said A. B. filed a general replication to the said answer. (If a reference has been had, say—"afterwards on &c., the Master having made a report in conformity with the said decree, and the same having been by order dated confirmed, the cause came on for further directions, whereupon after debate and hearing of the said report and the matter aforesaid," &c., &c., &c.) Afterwards on the day of 18 the evidence having been taken in the cause, and publication having passed, the cause came on for hearing. Whereupon, after debate and hearing the said bill, answer and replication, and the evidence aforesaid, the Court took time to consider thereof, and afterwards, on the day of 18 did order and decree that (insert the decretal order verbatim) and that the said do have writs of execution necessary in that behalf.

By order of the Court,

G. H., C. C. & R.

E. S., solicitor of party having decree.

(N. B.—If other proceedings, such as the trial of an issue, an attachment, and the like, be had in the cause, let them be shortly stated in order.)

(The following fees shall be taxed as between party and party on the Equity side of the Supreme Court.)

SOLICITOR'S FEES.

Warrants and instructions to sue and defend .....	.....	\$3.50
Drawing every bill, petition or answer .....	.....	5.00
And an additional fee not exceeding \$10 may be allowed where the proceedings are voluminous or difficult.		
Copies of such to file and serve, each .....	.....	1.50
Drawing demurrer, exception, plea or other special matter .....	.....	1.50
Copies to file and serve, each .....	.....	75
Suing out every process, final as well as mesne .....	.....	1.25
Copy for each defendant... ..	.....	50
Instructions for drawing interrogatories, when witness shall be examined in writing... ..	.....	75
Drawing every necessary interrogatory .....	.....	75
Drawing every affidavit ... ..	.....	75
An additional fee, not exceeding \$5, to be allowed where the statements are voluminous.		
Copy of the same and service, per folio of 100 words .....	.....	25
Every summons to attend the Court, or Judge, or Master .....	.....	75
Copy and service, each ... ..	.....	50

Every necessary attendance before Court, Judge, Master or Examiner.....	\$1.50
Attendance on examination of a witness.....	2.50
Drawing necessary exception to Master's report.....	1.50
Copies to file and serve, each.....	75
Every subpoena.....	25
Service.....	25
Preparing abstract of case for the Court.....	5.00
Copies for the Judges, each.....	1.50
Fees with briefs on demurrer and special arguments...	5.00
An additional fee, not exceeding \$10, to be allowed when the argument or case is important	
Every rule of Court.....	75
Copy and service, each... ..	50
Making up final decree...	3.50
Fee on ordinary motions.....	2.50
Fees with briefs on hearings, to be taxed by the Master, subject to increase or reduction by the Court.	
Preparing deeds which shall be ordered by the Court to be executed, or which shall be necessary in consequence of any decree or order, according to their character, to be taxed by the Master.	
Settling the issue, when issue shall be directed to be tried by a jury.....	2.50
And all other costs as allowed at common law, on proceedings and trial of an issue.	
Every notice of action, and every necessary notice of motion or notice of other matter, including service.....	75
Every necessary copy.....	25
Making up interlocutory decrees...	2.50
Expenses of service of documents, of witnesses and other outlays necessarily incurred in the progress of a suit to be allowed on verification and production of proper vouchers.	
Examiner's fees, each witness.....	2.50

MASTER'S FEES.

Every attendance upon an ordinary reference.....	1.50
Report thereon.....	1.50
Attendance on every special reference.....	5.00
And if occupied thereon more than one day \$2.50 each day after the first	
Report thereon.....	2.50
Every summons.....	25
Every certificate of facts.....	60
Taxing costs....	1.50
Poundage on sales where ordered, one per centum on the first \$400, and one-half per centum on the residue of purchase-money, to be in full for all charges except advertisements.	
For allowing and signing every notice for <i>Gazette</i>	60

Upon money paid into Court to be paid by the party paying in the same, two per cent. on all sums under \$400, and at the rate of one per cent. on every four hundred beyond the first four hundred.

SHERIFF'S FEES.

For every arrest	.....	\$2.50
Every warrant of attachment	.....	25
Execution of every writ of possession	.....	2.50
Poundage on levies actually taken into his custody, two and a half per cent. on first \$400, and one per cent. on every one hundred beyond the first four hundred, to include all expenses of sale.		

CHAPTER 29.

OF THE RECOVERY OF CLAIMS EX CONTRACTU AGAINST THE GOVERNMENT.

SECTION

- 1—Claims against Government to be made by petition and affidavit.
- 2—Time for appearance and answer. Time for general replication. Judgment in event of either party failing to proceed.
- 3—Proceedings on petition being taken as confessed.
- 4—Where answer admitted.

SECTION

- 5—Evidence may be taken.
- 6—Judgment to be certified to Colonial Secretary and carried into effect by Government.
- 7—Court may order re-hearing.
- 8—Costs.
- 9—Appeal to Queen in Council.

1. Any person who may have any claim arising *ex contractu* against the Government of this colony, or against any department thereof, shall prefer a petition to the Supreme Court, setting forth as briefly as possible the circumstances of the claim, and praying such relief, whether legal or equitable, as he may consider himself entitled to; and such petition shall be verified by affidavit, and a copy thereof shall be served upon the Attorney General, or, in his absence, the Solicitor General for the time being.

2. The Attorney General or, in his absence, the Solicitor General, shall, within ten days after such service, file an appearance and answer to the said petition in the said Court, and serve a copy of his answer on the petitioner or his attorney; and the petitioner, should he dispute the allegations therein contained, shall file a general replication to the same within four days after such answer shall have been served upon him; and should either party fail within the time aforesaid to take

such steps as may be incumbent upon him to bring the case to a hearing, judgment that the matter of the petition be taken as confessed, or that the same be dismissed for want of prosecution, as the case may require, may be entered by rule absolute in the first instance, by the opposite party.

3. Upon any petition being taken as confessed for the cause aforesaid, the Court shall pronounce judgment therein, or refer to the consideration and report of the Master any matter upon which they may deem inquiry to be necessary. The defendant in such suit may attend before the Master, and, within four days after the Master's report shall have been filed, file and serve exceptions to the same; and after all exceptions (if any) shall have been heard and determined, or upon such report if no exceptions have been taken, the Court shall give judgment in the cause according to the principles hereinafter declared with reference to contested suits.

4. When the petitioner shall admit the matter set forth in the answer of the Attorney General, or of the Solicitor General, he shall, within four days after such answer shall have been served and filed as aforesaid, set the cause down for hearing upon petition and answer.

5. When a replication shall have been filed, any evidence that may be required shall be taken in manner now practised on the equity side of the Court; and when all the evidence shall have been taken, the cause may be set down for hearing by either party, upon petition, answer and evidence.

6. At or after the hearing of the cause, judgment, either legal or equitable, according to the character of the relief sought, shall be given therein; and upon such judgment being certified to the Colonial Secretary by the Clerk of the Court, the same shall be carried into effect by the Government, either by payment of the amount thereof out of the general revenue of the colony, or by the performance of any other act that may be therein directed, should such judgment be to any effect other than the payment of money; or judgment for the payment of money may be enforced by process of execution against the moneys, lands, and effects of the local Government, as in ordinary cases between party and party.

7. The Court may, if it shall think fit, upon the petition of either party, to be filed within four days after judgment shall have been given, order that the said cause be re-heard; and at or after such re-hearing, the Court may confirm, alter, amend or reverse its former judgment, as the merits of the case may require.

8. When any such petition shall be dismissed, or judgment in the matter thereof be given against the petitioner, the attorney of the defendants shall tax and be entitled to receive from the petitioner the same costs as are allowed in an equity suit between private parties, and shall have the like remedy for the recovery thereof; and where judgment shall be given for the petitioner, he shall be entitled to tax and recover costs after the same scale from the Government, in manner provided with respect to judgments for the payment of money: Provided that nothing herein contained shall control the discretion of the Court in giving or withholding costs according to the ordinary rules of equity, where the relief sought is of an equitable character.

9. Either party in any such suit may appeal to the Queen in Council, in the same manner as in ordinary cases between party and party, under the Royal Charter.

TITLE V.

Of Wills and Testaments.

CHAPTER 30.

OF MAKING, &c., OF LAST WILLS AND TESTAMENTS.

SECTION

- 1—Wills, how executed.
- 2—Age of person competent to make a will,
- 3—Appointment by will in exercise of power, how executed.
- 4—Publication not necessary.
- 5—Incompetency of witness not to invalidate will.
- 6—Devise to witness not void if will can be otherwise proved.
- 7—Executor may be witness.
- 8—Will revoked by marriage.

SECTION

- 9—Will not revoked by presumption of intention.
- 10—Manner of revocation of will.
- 11—Alterations in will after execution.
- 12—Revoked will not revived otherwise than by re execution.
- 13—Subsequent conveyance not to affect will.
- 14—Construction of will as to time.
- 15—Construction of general devise.
- 16—Construction of certain terms.
- 17—To prevent lapsing of devise.
- 18—Limitation of provisions of chapter.

1. No will shall be valid unless it be made in writing, nor unless it be either in the handwriting of the testator, and signed by him, or, if not so written and signed, be signed by him in the presence of at least two witnesses, who shall, in the presence of the testator, sign the same as witnesses, and in case such will shall be made by a marks-

man, unless the same shall have been first read over to or by the testator in the presence of the said witnesses: Provided, that any seaman or fisherman, being at sea, may dispose of his property in the same manner as he might have done before the passing of this chapter.

2. No will shall be valid if made by a person under the age of seventeen years.

3. No appointment made by will, in exercise of any power, shall be valid unless the same be executed in manner hereinbefore required; and every will so executed shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding it shall have been expressly required that a will made in exercise of such power should be executed with some additional or other form of execution or solemnity.

4. Every will executed in manner hereinbefore required shall be valid without any publication thereof.

5. If any person who shall attest the execution of a will shall, at the time of the execution thereof, or at any time afterwards, be incompetent to be admitted a witness to prove the execution thereof, such will shall not on that account be invalid.

6. No devise, bequest, legacy, estate, interest, gift or appointment, to any person, or to the husband or wife of any person, who shall attest the execution of any will, shall be null and void if the will can be sufficiently proved, according to the provisions hereinbefore contained, without proof by such person of the execution thereof; but where the will cannot be sufficiently proved without the evidence of such person, he or she shall be admitted as a witness to prove the execution, or the validity, or invalidity, of such will, and in such case the devise, bequest, legacy, estate, interest, gift or appointment, in his or her favor, shall be null and void.

7. No person shall, on account of his being an executor of a will, be incompetent to be admitted a witness to prove the execution of such will, or a witness to prove the validity or invalidity thereof.

8. Every will made by a man or woman shall be revoked by his or her marriage, except a will made in exercise of a power of appointment, when the property thereby appointed would not, in default of such appointment, pass to his or her executor or administrator, or to the person entitled as his or her next of kin, under the statute of distributions.

9. No will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances.

10. No will or codicil, or any part thereof, shall be revoked otherwise than as aforesaid, or by another will or codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction, and with the intention of revoking the same.

11. No obliteration, interlineation, or other alteration, made in any will after the execution thereof, shall be valid or have any effect, except so far as the words or effect of the will before such alteration shall not be apparent, unless such alteration shall be made and executed in manner hereinbefore required; but such will, with such alteration as part thereof, shall be deemed to be duly executed if the signature of the testator, or such signature and the subscription of the witnesses, as the case may be, be made in the margin or on some other part of the will opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end, or some other part of the will, or attached thereto.

12. No will or codicil, or any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any will or codicil which shall be partly revoked, and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shewn.

13. No conveyance or other act made or done subsequently to the re-execution of a will of, or relating to, any property therein comprised, except an act by which such will shall be revoked as aforesaid, shall prevent the operation of the will with respect to such property as the testator shall have power to dispose of by will at the time of his death.

14. Every will shall be construed with reference to the property comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention shall appear by the will.

15. A general devise or bequest of the property of any kind of the testator, or of such property in any place or in the occupation of any person mentioned in his will, or otherwise described in a general man-

ner, shall be construed to include any property to which such description shall extend (as the case may be) which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the will.

16. In any devise or bequest of any property, the words "die without issue," or "die without leaving issue," or "have no issue," or any other words which may import either a want or failure of issue of any person in his lifetime, or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention shall appear by the will, by reason of such person having a prior quasi estate tail, or of a preceding gift being without any implication arising from such words or limitation of quasi estate tail to such person or issue, or otherwise: Provided that this chapter shall not extend to cases where such words as aforesaid import, if no issue described in a preceding gift shall be born, or if there shall be no issue who shall live to attain the age, or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue.

17. Where any person, being a child or other issue of the testator, to whom any property shall be devised or bequeathed for any estate or interest not determinable at or before the death of such person, shall die in the lifetime of the testator, leaving issue, and any such issue of such person shall be living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the will.

18. This chapter shall not extend to any will made prior to the thirteenth day of October, in the year of our LORD one thousand eight hundred and sixty-four.

CHAPTER 31.

OF PROBATES OF WILLS AND LETTERS OF ADMINISTRATION.

SECTION

- 1—Mode of granting probate or administration.
- 2—Proceedings where caveat entered.
- 3—Proceedings *ex parte*.
- 4, 5—Proof of will in solemn form.
- 6—Setting aside decree obtained on default.
- 7—Power of a Judge under this chapter.
- 8—Granting of probate, &c., by Court on circuit.
- 9—Probate and administration to be in name of Supreme Court.
- 10—Clerks on circuit to furnish lists of probates, &c., to Supreme Court in St. John's.

SECTION

- 11—Absence of executor or administrator from the country.
- 12—Production of letters testamentary.
- 13—Account of an intestate estate, &c., how obtained.
- 14—Citations, how served.
- 15—Judges may make rules.
- 16—Administration, &c., may be granted to other than those by law entitled.
- 17—Administrator, &c., to give security.
- 18—Costs of contested suits.
- 19—Fees of Clerk of the Court.

1. Letters of administration or probates of wills in common form may be granted by the Supreme Court or a Judge thereof in St. John's, and by the Supreme Court on circuit, upon petition and affidavit, notice of application therefor having been put up in the Clerk's office three days before making the same, where the application is made in St. John's, and two days' notice on the door of the Court House, when made on circuit.

2. Where a caveat to such application shall be entered before the expiration of the said three or two days respectively, or before rule or fiat shall be made, or when in the opinion of the Court or Judge, sufficient objection shall appear against a grant of letters of administration or probate, before granting the same all parties concerned therein (or so many of them as the Court or Judge may consider necessary) shall be cited to show cause before the Court or a Judge why administration or probate should not be granted to the applicant; and such parties shall, on a day to be named in the citation, file an answer setting forth succinctly the grounds of their objection, and shall at the same time serve a copy of such answer on the petitioner, his attorney or agent; after which, on a day to be fixed by the Court or Judge, the witnesses for both parties shall be brought before the said Court or Judge, or an examiner to be appointed for that purpose, and examined and cross-examined *viva voce*, or by commission, on interrogatories and cross-interrogatories when so ordered; and the said Court or Judge, after

hearing all such evidence, and the parties or their counsel, shall make such order touching the premises as to justice shall appertain.

3. When any of the parties do not appear and answer, (due proof of service of citation on them having been made,) the proceedings may be heard and determined *ex parte*, or such further time given for such appearance and answer, and on such terms, as the Court or Judge may direct.

4. Any party interested in a will may compel proof thereof in solemn form, by serving on the executor or party having execution of such will, or praying therefor, a citation; whereupon such executor or party shall, within ten days after such service, file in the clerk's office a petition verified by affidavit praying that such will may be proved in solemn form, and such further proceedings shall thereupon be had for such proof, and, if required, for contestation of such will, as are hereinbefore directed in the case of the validity of such will being contested on the first application for probate.

5. Any executor, or party desiring or having execution of a will, may have the same proved in solemn form at any time before the Court or a Judge, by filing a petition therefor in the clerk's office, verified as aforesaid, when such further proceedings shall be taken for such proof, and, if required, for contestation of such will, as are hereinbefore mentioned in cases where the validity of wills may be contested in manner aforesaid.

6. The Court or a Judge, upon sufficient cause shown, may set aside any order or decree obtained on a default, upon such terms, as to the payment of costs or otherwise, as may be equitable.

7. In all matters brought before any Judge under the provisions of this chapter, the said Judge shall have the like powers, jurisdiction and authority for enforcing the attendance of persons and witnesses, and for punishing persons and witnesses failing, neglecting, or refusing to produce deeds, evidences or writings, or refusing to appear, or to be sworn or make affirmation or declaration, or to give evidence, or guilty of contempt, and generally for enforcing all orders, decrees and judgments made or given by the said Judge under this chapter, and otherwise in relation to the matters to be enquired into and done under the order of the said Judge under this chapter, as are vested in the Supreme Court for such purposes in relation to any matter depending in such Court.

8. The Supreme Court on circuit shall not grant letters of administration or probate of a will unless the application therefor shall be

supported by an affidavit, stating among other things that the intestate or testator, at the time of his decease, had a fixed place of abode within the judicial district in which the said Court shall be sitting. And where a caveat shall be entered against the granting of administration or probate by such Court, or when in the opinion of the Court objection to the granting thereof shall appear, all subsequent proceedings thereon shall be heard and determined before the Supreme Court in St. John's, where all papers and documents in the matter shall be transferred by the clerk of the said Court on circuit.

9. All letters of administration and probates of will granted on circuit shall be issued in the name of the Supreme Court of Newfoundland, and no seal shall be required, but the signature of the Judge and the clerk shall be sufficient.

10. The respective clerks on circuit shall, at the close of each term, return to the office of the Chief Clerk and Registrar of the Supreme Court in St. John's, a list of probates and letters of administration granted on circuit during such term, together with the original wills of which probate or administration *cum testamento annexo* may have been granted, and the several administration bonds which may have been taken by such clerks during said terms—the said clerks having taken and filed correct copies of said original wills—which returns shall be entered in the book of acts of the Supreme Court of this Island by the said Chief Clerk and Registrar, and when so entered shall be as effectual in evidence, and for all other purposes, as if the probate or administration had been granted by the said Supreme Court in St. John's; and in case of the loss of any original will in course of transmission to the Chief Clerk and Registrar at St. John's or otherwise, the copy of such will, to be taken and filed in manner aforesaid, shall be of equal avail for entering in the book of acts, and for all other purposes, as the original.

11. When an executor or administrator, to whom probate or administration has been or may be granted, shall depart from and remain absent from this colony for the period of one year, without having appointed an attorney to act for and represent him in either case, the Supreme Court or a Judge may, on petition verified by oath, shewing to the satisfaction of the said Court or Judge that the interests of parties concerned in the estate are or will be prejudiced by the absence of such executor or administrator, appoint an administrator with the will annexed, or administrator *de bonis non*, as the case may be, who shall respectively, during the absence of such executor or administra-

tor; on giving sufficient security, have, possess, and exercise, all and singular the same power and authority as the executor or administrator so absent as aforesaid, if personally present. And in case of contest proceedings shall and may be similar to those provided under the second section of this chapter.

12. The Supreme Court may, on motion or petition, or otherwise in a summary way, whether any suit or other proceeding shall or shall not be pending in the Court with respect to any probate or administration, order any person to produce and bring into Court or into the clerk's office, or otherwise as the Court may direct, any paper or writing being or purporting to be testamentary, which may be shewn to be in possession or under the control of such person; and if it be not shewn that any such paper or writing is in the possession or under the control of such person, but it shall appear that there are reasonable grounds for believing that he has the knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined in open Court, or upon interrogatories respecting the same, and such person shall be bound to answer such questions or interrogatories, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like process of contempt in case of default in not attending or in not answering such questions or interrogatories, or not bringing in such paper or writing, as he would have been subject to in case he had been a party to a suit in the Court and had made such default; and the costs of any such motion, petition or other proceeding, shall be in the discretion of the Court.

13. Application may be made to the Supreme Court for any of the following purposes, that is to say: for an account of an intestate estate or for the distribution of such estate, or for the payment or delivery of a legacy, or for the appointment of a receiver or of a guardian to the person or property of an infant or of a natural fool, or of such as are or shall be deprived of their reason or understanding, or for any matter or thing concerning the execution of the trusts or provisions of any will, or for the removal of any executor, administrator, receiver, guardian or trustee, or for the revocation of letters of administration or probate, or for the appointment of a trustee to the property of a married woman, or of new trustees in the place of trustees appointed by any will, conveyance or otherwise, in the event of the death or absence of such former trustees, or their refusal to act, or being desirous of being relieved of such trust, or acting improperly, or becoming disqualified for any cause. Such application shall be made to such Court by peti-

tion, filed in the clerk's office, verified by affidavit and supported by such other affidavits as may be thought necessary, setting forth succinctly the facts and circumstances of the case; and thereupon the said Court may grant a rule on any party or parties interested, returnable on a day to be specified therein, to answer such petition, and on hearing said parties or their counsel, and the affidavits by them respectively produced, shall grant or refuse the prayer of such petition, or make such other order or orders in the premises as justice shall require. Provided the Court may direct the evidence to be taken *viva voce* in open Court upon interrogatories and cross-interrogatories, before a commissioner or examiner.

14. In any contested suit for probate or letters of administration, and in any proceeding under this chapter in which conflicting claims or rights may be set up, the hearing and adjudication shall be before and by two Judges, if desired by either party, or before and by the full Court, if the Court see fit, with the right of rehearing before the three Judges if only two shall have sat together and differed in opinion. And the decision of any one Judge may of right be reheard by two or more Judges, subject, if the Court so order, to the party desiring the re-hearing being subject to the costs attendant thereon.

15. Service of citations shall be made personally upon the party to whom the same shall be directed, unless in cases where, for sufficient cause, the Court or a Judge shall otherwise order.

16. Under special circumstances, where it may appear to the Court or Judge to be just or expedient, administration or probate may be granted to some person other than the person ordinarily or by law entitled to such administration or probate.

17. No administration shall be issued, or guardian or receiver of property appointed, until security to the satisfaction of the Court or Judge shall be given by such administrator, guardian or receiver, for the faithful discharge of his duties.

18. The Judges of the Supreme Court may, by rules to be by them made, and published for one month in the *Royal Gazette*, regulate the practice and establish forms for the more effectual execution of this chapter.

19. The costs of contested suits shall be the same as those on the equity side of the said Court.

20. The fees (and none other) in the following table for the services therein mentioned shall be received by the clerks of the Supreme Court, that is to say: In all cases, where the value of the estate of any per-

son deceased, in which application shall be made for administration, shall not exceed two hundred dollars, the sum of two dollars and fifty cents in lieu of all other fees; and between two hundred dollars and up to four hundred dollars, three dollars in lieu of all other fees; and in cases of probate or administration with the will annexed, where the value of the estate shall be as aforesaid, the fee in addition, in the scale following, for fair copying and registering will; and if the value of the estate shall exceed four hundred dollars, the following fees:

For taking proof of will in office	\$1.50
Registering the will, every folio of 100 words	25
Taking proof of <i>dedimus potestatum</i> , where necessary	1.50
Issuing probate or letters of administration... ..	2.50
Taking bond from administrator and sureties, affidavits, &c....	1.50
Copy of will to be annexed to probate or administration, every folio	25
Entry and record of probate or administration	1.25
Every search	25
Every affidavit..	25
Every citation..	25
Letters of guardianship... ..	2.50
Exemplification of probate or letters of administration	2.50

SCHEDULE.

FORM OF CAVEAT.

In the Supreme Court,
Probate side.

Let nothing be done in the estate of A. B., late of
deceased, unknown to

Signature of the party, or
his proctor, opposing
letters of administra-
tion or probate.

CITATION WHERE CAVEAT ENTERED OR WHERE ORDERED BY COURT OR JUDGE.

In the Supreme Court,
Probate side.

In the estate of A. B., of &c. deceased at the instance
of C. D., of &c., claiming (as the next of kin, or as executor, as the case
may be) of the said A. B. It is ordered that E. F., of &c., do show cause,
if any he have, or why (administration or probate to the will of, or
probate in solemn form, as the case may be) the said A. B. should not

be granted to the said C. D., by filing in the Registrar's office and serving on the said C. D. an answer containing the grounds on which he resists such grant within days after service of this citation; otherwise the claim of the said C. D. will be taken to be admitted by him.

By the Court,

18

M. N., Proctor for C. D.

G. H., *C. C. & R.*

FORM OF CITATION TO COMPEL PROOF OF A WILL IN SOLEMN FORM.

Supreme Court,

Probate side.

In the estate of A. B., of &c., at the instance of C. D.,
of &c. claiming, &c. It is ordered that
E. F., executor of the alleged last will of the said A. B. (or administrator, with the will annexed, as the case may be) do, within ten days after service hereof, proceed according to law to prove the said will in solemn form, otherwise the probate thereof (or administration and probate) heretofore granted will be revoked.

18.

M. N., Proctor for C. D.

G. H., *C. C. & R.*

TITLE VI.

Of Executors and Administrators.

CHAPTER 32.

THEIR RIGHTS, &c., IN CERTAIN CASES.

SECTION.

1—Executors may bring action for injuries to real estate of deceased. Action may be brought against executors for

SECTION

injury to property real or personal by testator.
2, 3—Executors may distrain.

1. An action may be maintained by the executors or administrators of any person deceased, for any injury to the real estate of such person, committed in his lifetime, for which an action might have been maintained by such person, so as such injury shall have been committed.

within six months before the death of such deceased person, and provided such action shall be brought within one year after the death of such person; and the damages when recovered shall be part of the personal estate of such person; and an action may be maintained against the executors or administrators of any person deceased, for any wrong committed by him in his lifetime to another, in respect to his property real or personal, so as such injury shall have been committed within six months before such person's death, and so as such action shall be brought within six months after such executors or administrators shall have taken upon themselves the administration of the estate and effects of such person; and the damages to be recovered in such action shall be payable in like order of administration, as the simple contract debts of such person.

2. The executors or administrators of any lessor or landlord may distrain upon the lands demised for any term or at will for the arrearages of rent due to such lessor or landlord in his lifetime, in like manner as such lessor or landlord might have done in his lifetime.

3. Such arrearages may be distrained for after the end or determination of such term or lease at will, in the same manner as if such term or lease had not been ended or determined: Provided that such distress be made within the space of six months after the determination of such term or lease, and during the continuance of the possession of the tenant from whom such arrears became due. All the powers and provisions of the law relating to distress for rent shall be applicable to distresses made under the provisions of this chapter.

TITLE VII.

Of Guarantees and Sureties and of Limitation of Actions.

CHAPTER 33.

OF THE LIMITATION OF PERSONAL ACTIONS AT LAW, AND CONCERNING
GUARANTEES AND SURETIES.

SECTION

- 1—Limitation of personal actions.
- 2—Limitation after judgment reversed.
- 3—Infants, feme covert, &c.
- 4—What acknowledgment shall take a case out of the operation of the first section. Joint contractors.
- 5—Acknowledgment by writing or by part payment.
- 6—Meaning of term "beyond seas."

SECTION

- 7—Pleas in abatement.
- 8—Indorsements of payments.
- 9—Debts alleged by way of set-off.
- 10—Confirmation of promises made by infants.
- 11—Consideration of guarantee.
- 12—Rights of surety.
- 13—Merchants' accounts.
- 14—Effect of part payment by one contractor.

1. All actions of debt for rent upon an indenture of demise, all actions of covenant or debt upon any bond or other specialty, and all actions of debt or *scire facias* upon any recognizance; all actions of debt upon any award where the submission is not by specialty, or for an escape, or for money levied on any *fiери facias*; all actions of trespass *quare clausum fregit*, actions of trespass, detinue, trover and replevin for taking away of goods or cattle; all actions of account and upon the case (other than such accounts as concern the trade of merchandize between merchant and merchant, their factors or servants); all actions of debt grounded upon any lending or contract without specialty, and all actions of debt for arrearages of rent; all actions or suits in the Court of Vice Admiralty for seamen's wages, and all actions of assault, menace, battery, wounding and imprisonment, or any of them, and all actions for penalties, damages or sums of money given to the party grieved by any statute now or hereafter to be in force, shall be commenced and sued within the time and limitation hereinafter expressed, and not after; that is to say: the said actions of debt for rent upon an indenture of demise, covenant or debt upon any bond or other specialty, actions of debt or *scire facias* upon recognizance, within twenty years after the cause of such actions, but not after; the said

actions of debt upon any award where the submission is not by specialty, or for an escape, or for money levied on any *fieri facias*, the said actions upon the case, (other than for slander,) and the said actions for account, and the said actions for trespass, debt, detinue, trover and replevin for goods or cattle, and the said actions for trespass *quare clausum fregit*, and actions or suits in the Court of Vice Admiralty for seamen's wages, within six years next after the causes of such actions or suits, and not after; and the said actions of trespass, of assault, menace, battery, wounding, imprisonment, or any of them, within four years next after the cause of such actions, and not after; and the said actions for penalties, damages, or sums of money by the party grieved, within two years after the cause of such action; and also the said actions upon the case for words, within two years next after the words spoken, and not after: Provided that nothing herein contained shall extend to any action given by any statute where the time for bringing such action is or shall be by any statute specially limited.

2. If in any of the said actions or suits judgment be given for the plaintiff, and the same be reversed by any Court of competent jurisdiction, or a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment the judgment be given against the plaintiff, that he take nothing by his plaint, writ or bill, in all such cases the party plaintiff, his executors or administrators, as the case shall require, may commence a new action or suit from time to time within a year after such judgment reversed, or such judgment given against the plaintiff, and not after.

3. If any person who is or shall be entitled to any such action or suit, or to such *scire facias*, is, or shall be at the time of any such cause of action accrued, within the age of twenty-one years, a feme covert, *non compos mentis*, or beyond the seas, then such person may bring the same action, so as such person commences the same within such times after coming to or being of full age, discoverd, of sound memory, or returned from beyond the seas, as any other person having no such impediment should, according to the provisions of this chapter, have done; and if any person against whom there shall be any such cause of action is, or shall be at the time such cause of action accrued, beyond the seas, then the person entitled to any such cause of action may bring the same against such person within such times respectively as are before limited after the return of such person from beyond the seas.

4. In any action of debt for rent upon an indenture of demise, action of covenant, or debt upon any bond or other specialty, action of debt

or *scire facias* upon any recognizance, and in all actions of debt or upon the case grounded upon any simple contract, no acknowledgment or promise by words only shall be deemed sufficient evidence of a new or continuing contract, whereby to take any case out of the operation of the first section of this chapter, or to deprive any party of the benefit thereof, unless such acknowledgment or promise shall be made or contained by or in some writing to be signed by the party chargeable thereby, or his agent; and when there shall be two or more joint contractors, or executors or administrators of any contractor, no such joint contractor, executor or administrator, shall lose the benefit of the said first section of this chapter so as to be chargeable in respect or by reason only of any written acknowledgment or promise made or signed by any other or others of them: Provided that nothing herein contained shall alter or take away or lessen the effect of any payment of principal or interest made by any person whatever; and also, that in actions to be commenced against two or more such joint contractors, or executors or administrators, if it shall appear at the trial, or otherwise, that the plaintiff, though barred by the first section of this chapter as to one or more of such joint contractors or executors or administrators, shall nevertheless be entitled to recover against any other or others of the defendants by virtue of a new acknowledgment or promise, or otherwise, judgment may be given and costs allowed for the plaintiff as to such defendant or defendants against whom he shall recover, and for the other defendant or defendants against the plaintiff.

5. If any acknowledgment shall have been made either by writing signed by the party, or the agent of the party liable by virtue of such indenture, specialty or recognizance, or liable in any action of debt or upon the case, grounded upon any simple contract, or by part payment or part satisfaction, on account of any principal or interest being then due thereon, the person entitled to such actions may bring his action for money remaining unpaid, and so acknowledged to be due, within such periods of time respectively after such acknowledgment by writing, or part payment, or part satisfaction as aforesaid, as are hereinbefore prescribed for commencing such actions; or in case the person entitled to such action shall, at the time of such acknowledgment, be under such disability as aforesaid, or the party making such acknowledgment be at the time of making the same beyond the seas, then within such respective periods of time as aforesaid, after such disability shall have ceased, or the party shall have returned from beyond seas, as the case may be; and the plaintiff in any such action may, by

way of replication, state such acknowledgment, and that such action was brought within the time aforesaid in answer to a plea of this chapter.

6. By the term "beyond the seas," in this chapter, shall be meant any place beyond the limits of the government of Newfoundland.

7. If any defendant in any action of debt for rent upon any indenture of demise, action of covenant or debt upon any bond or other specialty, action of debt or *scire facias* upon any recognizance, or any action on any simple contract, shall plead any matter in abatement to the effect that any other person ought to be jointly sued, and issue be joined on such plea, and it shall appear at the trial that the action could not by reason of the first section of this chapter be maintained against any other person named in such plea, the issue joined on any such plea shall be found against the party pleading the same.

8. No indorsement or memorandum of any payment written or made upon any promissory note, bill of exchange, or upon any recognizance, bond, specialty, or other writing, by or on behalf of the party to whom such payment shall be made, shall be deemed sufficient proof of such payment so as to take the case out of the operation of the said first section of this chapter.

9. This chapter shall apply to the case of any debt on any specialty, or any simple contract or otherwise, which may now or at any time hereafter by law be alleged by way of set-off on the part of any defendant, either by plea, notice or otherwise.

10. No action hereafter to be brought shall be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon any ratification after full age of any promise or simple contract made during infancy, unless such promise or ratification shall be made by some writing signed by the party to be charged therewith.

11. No special promise to be made by any person after the twentieth day of April, anno Domini one thousand eight hundred and sixty-eight, to answer for the debt, default or miscarriage of another person, being in writing and signed by the party to be charged therewith, or some other person by him thereunto lawfully authorized, shall be deemed invalid to support an action, suit, or other proceeding, to charge the person by whom such promise shall have been made, by reason only that the consideration for such promise does not appear in writing, or by necessary inference from a written document.

12. Every person who, being surety for debt or duty of another, or,

being liable with another for any debt or duty, shall pay such debt or perform such duty, shall be entitled to have assigned to him, or to a trustee for him, every judgment, specialty, or other security, which shall be held by the creditor in respect of such debt or duty, whether such judgment, specialty or other security shall or shall not be deemed at law to have been satisfied by the payment of the debt or performance of the duty; and such person shall be entitled to stand in the place of the creditor, and to use all the remedies, and, if need be, and upon a proper indemnity, to use the name of the creditor in any action, or other proceeding at law, or in equity, in order to obtain from the principal debtor, or any co-surety, co-contractor, or co-debtor, as the case may be, indemnification for the advances made and loss sustained by the person who shall have paid such debt or performed such duty; and such payment or performance so made by such surety shall not be pleadable in bar of any such action or other proceeding by him : Provided that no co-surety, co-contractor or co-debtor, shall be entitled to recover from any other co-surety, co-contractor, or co-debtor, by the means aforesaid, more than the just proportion to which, as between those parties themselves, such last mentioned person shall be justly liable.

13. All actions of account, or for not accounting, and suits for such accounts as concern the trade of merchandize between merchant and merchant, their factors or servants, or other persons, shall be commenced and sued within six years after the cause of such actions or suits; and no claim in respect of a matter which arose more than six years before the commencement of such action or suit shall be enforceable by action or suit by reason only of some other matter of claim, comprised in the same account, having arisen within six years next before the commencement of such action or suit.

14. When there shall be two or more co-contractors, or co-debtors, whether bound or liable jointly only, or jointly and severally, or executors or administrators of any contractor, no such co-contractor, or co-debtor, executor or administrator, shall lose the benefit of the enactments mentioned in this chapter, so as to be chargeable in respect or by reason only of payment of any principal, interest, or other money, by any others of such co-contractors or co-debtors, executors or administrators.

CHAPTER 34.

OF THE LIMITATION OF ACTIONS AND SUITS RELATING TO REAL PROPERTY,
AND THE REMEDIES FOR TRYING THE RIGHTS THERETO.

SECTION

- 1—Meaning of words.
- 2—Action to recover land or rent to be brought within twenty years after right accrued.
- 3—Time when such right deemed to have accrued.
- 4—Remainder-man, when to have new right.
- 5—Reversioner to have new right.
- 6—Administrator, how to claim.
- 7—Tenancy at will.
- 8—Tenancy from year to year.
- 9—Where rent reserved by lease in writing wrongfully received.
- 10—Entry not to be deemed possession.
- 11—Continual claim.
- 12—Possession of one joint-tenant.
- 13—Acknowledgment in writing equivalent to possession or receipt of rent.

SECTION

- 14—Infants, &c., allowed ten years from termination of disability or death.
- 15—No action to be brought beyond forty years after right accrued.
- 16—Succession of disabilities.
- 17—Meaning of term “beyond the seas.”
- 18—Bar of right to estate in possession to be bar to right to future estates.
- 19—Suit in equity not to be brought after time limited for actions at law.
- 20—Express trust.
- 21—Fraud.
- 22—Jurisdiction of equity.
- 23—Mortgagor.
- 24—When money charged on land and legacies to be deemed satisfied.
- 25—Arrears of rent or interest.
- 26—Right of party out of possession.
- 27—Receipt of rent.

1. The words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this chapter, except where the nature of the provision or the context shall exclude such construction, be interpreted as follows, that is to say: the word “land” shall extend to messuages and all other corporeal hereditaments whatsoever, and also to any share, estate or interest in them, or any of them, whether the same shall be a freehold or chattel interest, or held according to any other tenure; and the word “rent” shall extend to all services and suits for which a distress may be made, and to all annuities and periodical sums of money charged upon or payable out of any land; and the person through whom another is said to claim shall mean any person by, through, or under, or by the act of whom, the person so claiming became entitled to the estate or interest claimed, as executor, administrator, legatee, husband, assignee, appointee, or otherwise.

2. No person shall make an entry or distress or bring an action to recover any land or rent, but within twenty years next after the time at which the right to make such entry or distress, or to bring such ac-

tion, shall have first accrued to some person through whom he claims; or if such right shall not have accrued to any person through whom he claims, then within twenty years next after the time at which the right to make such entry or distress, or to bring such action, shall have first accrued to the person making or bringing the same. Provided any person entitled to or claiming under any mortgage of land may make an entry or bring an action at law, or suit in equity, to recover such land at any time within twenty years next after the last payment of any part of the principal money or interest secured by such mortgage, although more than twenty years may have elapsed since the time at which the right to make such entry or bring such action or suit in equity shall have first accrued.

3. In the construction of this chapter, the right to make an entry or distress, or bring an action to recover any land or rent, shall be deemed to have first accrued at such time as hereinafter is mentioned, that is to say: when the person claiming such land or rent, or some person through whom he claims, shall, in respect of the estate or interest claimed, have been in possession or in receipt of the profits of such land or in receipt of such rent, and shall while entitled thereto have been dispossessed, or have discontinued such possession or receipt, then such right shall be deemed to have first accrued at the time of such dispossession, or discontinuance of possession, or at the last time at which any such profits or rent were or was so received; and when the person claiming such land or rent shall claim the estate or interest of some deceased person who shall have continued in such possession or receipt, in respect of the same estate or interest, until the time of his death, and shall have been the last person entitled to such estate or interest who shall have been in such possession or receipt, then such right shall be deemed to have first accrued at the time of such death; and when the person claiming such land or rent shall claim in respect of an estate or interest in possession, granted, appointed, or otherwise assured by any instrument (other than a will) to him, or some person through whom he claims, by a person being in respect of the same estate or interest in the possession or receipt of the profits of the land, or in receipt of the rent, and no person entitled under such instrument shall have been in such possession or receipt, then such right shall be deemed to have first accrued at the time at which the person claiming as aforesaid, or the person through whom he claims, became entitled to such possession or receipt, by virtue of such instrument; and when the estate or interest claimed shall have been an estate or interest in

reversion or remainder, or other future estate or interest, and no person shall have obtained the possession or receipt of the profits of such land, or the receipt of such rent in respect of such estate or interest, then such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession; and when the person claiming such land or rent, or the person through whom he claims, shall have become entitled by reason of any forfeiture or breach of condition, then such right shall be deemed to have first accrued when such forfeiture was incurred or such condition was broken.

4. When any right to make an entry or distress, or to bring an action to recover any land or rent by reason of any forfeiture or breach of condition, shall have first accrued in respect of any estate or interest in reversion or remainder, and the land or rent shall not have been recovered by virtue of such right, the right to make an entry or distress, or bring an action to recover such land or rent, shall be deemed to have first accrued in respect of such estate or interest at the time when the same shall have become an estate or interest in possession, as if no such forfeiture or breach of condition had happened.

5. A right to make an entry or distress, or an action to recover any land or rent, shall be deemed to have first accrued, in respect of an estate or interest in reversion, at the time at which the same shall have become an estate or interest in possession, by the determination of any estate in respect of which such land shall have been held, or the profits thereof, or such rent shall have been received, notwithstanding the person claiming such land, or some person through whom he claims, shall, at any time previously to the creation of the estate which shall have determined, have been in possession or receipt of the profits of such land or in receipt of such rent.

6. For the purposes of this chapter, an administrator claiming the estate or interest of the deceased person, of whose chattels he shall be appointed administrator, shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration.

7. When any person shall be in possession or in receipt of the profits of any land, or in receipt of any rent as tenant at will, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or bring an action to recover such land or rent, shall be deemed to have first accrued either at the determination of such tenancy, or at the expiration of one year next

after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined: Provided that no mortgagor or *cestui que trust* shall be deemed to be a tenant at will, within the meaning of this clause, to his mortgagee or trustee.

8. When any person shall be in possession or in receipt of the profits of any land, or in receipt of any rent, as tenant from year to year or other period, without any lease in writing, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy shall have been received (which shall last happen).

9. When any person shall be in possession or in receipt of the profits of any land, or in receipt of any rent by virtue of a lease in writing, by which a rent amounting to the yearly sum of four dollars or upwards shall be reserved, and the rent reserved by such lease shall have been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease shall afterwards have been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent subject to such lease, or of the person through whom he claims, to make an entry or distress, or to bring an action after the determination of such lease, shall be deemed to have first accrued at the time at which the rent reserved by such lease was first so received by the person wrongfully claiming as aforesaid; and no such right shall be deemed to have first accrued upon the determination of such lease to the person rightfully entitled.

10. No person shall be deemed to have been in possession of any land within the meaning of this chapter merely by reason of having made an entry thereon.

11. No continual or other claim upon or near any land shall preserve any right of making an entry or distress, or of bringing an action.

12. When any one or more of the several persons entitled to any land or rent as joint tenants or tenants in common shall have been in possession or receipt of the entirety, or more than his or their undivided share or shares of such land, or of the profits thereof, or of such rent, for his or their own benefit, or for the benefit of any person or

persons other than the person or persons entitled to the other share or shares of the same land or rent, such possession or receipt shall not be deemed to have been the possession or receipt of or by such last mentioned person or persons, or any of them.

13. When any acknowledgment of the title of the person entitled to any land or rent shall have been given to him or his agent in writing, signed by the person in possession or in receipt of the profits of such land, or in receipt of such rent, then such possession or receipt of or by the person by whom such acknowledgment shall have been given, shall be deemed, according to the meaning of this chapter, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment shall have been given at the time of giving the same; and the right of such last mentioned person, or any person claiming through him, to make an entry or distress, or bring an action to recover such land or rent, shall be deemed to have first accrued at and not before the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given.

14. If at the time at which the right of any person to make an entry or distress, or bring an action to recover any land or rent, shall have first accrued as aforesaid, such person shall have been under any of the disabilities hereinafter mentioned, that is to say: infancy, coverture, idiotcy, lunacy, unsoundness of mind, or absence beyond seas, then such person, or the person claiming through him, may, notwithstanding the period of twenty years hereinbefore limited shall have expired, make an entry or distress, or bring an action to recover such land or rent, at any time within ten years next after the time at which the person to whom such right shall first have accrued, as aforesaid, shall have ceased to be under any such disability, or shall have died (which shall have first happened).

15. No entry, distress, or action shall be made or brought by any person who, at the time at which his right to make an entry or distress, or to bring an action to recover any land or rent shall have first accrued, shall be under any of the disabilities hereinbefore mentioned, or by any person claiming through him, but within forty years next after the time at which such right shall have first accrued, although the person under disability at such time may have remained under one or more of such disabilities during the whole of such forty years, or although the term of ten years from the time at which he shall have ceased to be under any such disability, or have died, shall not have expired.

16. When any person shall be under any of the disabilities hereinbefore mentioned at the time at which his right to make an entry or distress, or to bring an action to recover any land or rent shall have first accrued, and shall depart this life without having ceased to be under any such disability, no time to make an entry or distress, or to bring an action to recover such land or rent beyond the said period of twenty years next after the right of such person to make an entry or distress, or to bring an action to recover such land or rent, shall have first accrued, or the said period of ten years next after the time at which such person shall have died, shall be allowed by reason of any disability of any other person.

17. By the term "beyond seas" in this chapter, shall be meant any place beyond the limits of the Government of Newfoundland.

18. When the right of any person to make an entry or distress, or bring an action to recover any land or rent to which he may have been entitled, for an estate or interest in possession, shall have been barred by the determination of the period hereinbefore limited which shall be applicable in such case, and such person shall at any time during the said period have been entitled to any other estate, interest, right or possibility, in reversion, remainder or otherwise, in or to the same land or rent, no entry, distress, or action shall be made or brought by such person, or any person claiming through him, to recover such land or rent, in respect of such other estate, interest, right or possibility, unless in the meantime such land or rent shall have been recovered by some person entitled to an estate, interest or right, which shall have been limited or taken effect after or in defeasance of such estate or interest in possession.

19. No person claiming any land or rent in equity shall bring any suit to recover the same but within the period during which, by virtue of the provisions hereinbefore contained, he might have made an entry or distress, or brought an action to recover the same respectively, if he had been entitled at law to such estate, interest, or right in or to the same as he shall claim therein in equity.

20. When any land or rent shall be vested in a trustee upon any express trust, the right of the *cestui que trust*, or any person claiming through him, to bring a suit against the trustee, or other person, claiming through him, to recover such land or rent, shall be deemed to have first accrued, according to the meaning of this chapter, at and not before the time at which such land or rent shall have been conveyed to a purchaser for a valuable consideration, and shall then be deemed,

to have accrued only as against such purchaser and any person claiming through him.

21. In every case of concealed fraud the right of any person to bring a suit in equity for the recovery of any land or rent of which he, or any person through whom he claims, may have been deprived by such fraud, shall be deemed to have first accrued at and not before the time at which such fraud shall, or with reasonable diligence might, have been first known or discovered: Provided that nothing in this clause contained shall enable any owner of lands or rents to have a suit in equity for the recovery of such lands or rents, or for setting aside any conveyance of such lands or rents, on account of fraud, against any *bona fide* purchaser for valuable consideration who has not assisted in the commission of such fraud, and who, at the time that he made the purchase, did not know and had no reason to believe that any such fraud had been committed.

22. Nothing in this chapter contained shall interfere with any rule or jurisdiction of Courts of Equity in refusing relief on the ground of acquiescence or otherwise to any person whose right to bring a suit may not be barred by virtue of this chapter.

23. When a mortgagee shall have obtained the possession or receipt of the profits of any land, or the receipt of any rent, comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring a suit to redeem the mortgage but within twenty years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgment of the title of the mortgagor, or of his right of redemption, shall have been given to the mortgagor, or some person claiming his estate, or to the agent of such mortgagor or person, in writing, signed by the mortgagee, or the person claiming through him; and in such case no such suit shall be brought but within twenty years next after the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given; and when there shall be more than one mortgagor, or more than one person claiming through the mortgagor or mortgagors, such acknowledgment, if given to any of such mortgagors or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons; but where there shall be more than one mortgagee, or more than one person claiming the estate or interest of the mortgagee or mortgagees, such acknowledgment, signed by one or more of such mortgagees or persons, shall be effectual only as against the party or parties signing as aforesaid, and the person or persons

claiming any part of the mortgage money, or land, or rent, by, from, or under him or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests, and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money, or land, or rent; and where such of the mortgagees or persons aforesaid as shall have given such acknowledgment shall be entitled to a divided part of the land or rent comprised in the mortgage, or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors shall be entitled to redeem the same divided part of the land or rent, on payment with interest of the part of the mortgage money, which shall bear the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent shall bear to the value of the whole of the land or rent comprised in the mortgage.

24. No action or suit or other proceeding shall be brought to recover any sum of money secured by any mortgage, judgment or lien, or otherwise charged upon or payable out of any land or rent, at law or in equity, or any legacy, but within twenty years next after a present right to receive the same shall have accrued to some person capable of giving a discharge for or release of the same, unless in the meantime some part of the principal money, or some interest thereon, shall have been paid, or some acknowledgment of the right thereto shall have been given in writing, signed by the person by whom the same shall be payable, or his agent, to the person entitled thereto, or his agent; and in such case no such action or suit or proceeding shall be brought but within twenty years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was given.

25. No arrears of rent or of interest in respect of any sum of money charged upon or payable out of the land or rent, or in respect of any legacy, or any damages in respect of such arrears of rent or interest, shall be recovered by any distress, action, or suit, but within six years next after the same respectively shall have become due, or next after an acknowledgment of the same in writing shall have been given to the person entitled thereto, or his agent, signed by the person by whom the same was payable, or his agent: Provided, nevertheless, that where any prior mortgagee or other incumbrancer shall have been in possession of any land, or in the receipt of the profits thereof, within one year

next before an action or suit shall be brought by any person entitled to a subsequent mortgage or other incumbrance on the same land, the person entitled to such subsequent mortgage or incumbrance may recover in such action or suit the arrears of interest which shall have become due during the whole time that such prior mortgagee or incumbrancer was in such possession or receipt as aforesaid, although such time may have exceeded the said term of six years; and that nothing herein contained shall be construed to repeal or alter the provision of the first section of the preceding chapter.

26. At the determination of the period limited by this chapter to any person for making an entry or distress, or bringing any action or suit, the right and title of such person to the land or rent, for the recovery whereof such entry, distress, action, or suit respectively, might have been made or brought within such period, shall be extinguished.

27. The receipt of the rent payable by any tenant from year to year, or other lessee, shall as against such lessee, or any other person claiming under him, (but subject to the lease,) be deemed to be the receipt of the profits of the land for the purposes of this chapter.

TITLE VIII.

CHAPTER 35.

OF CHATTELS REAL.

SECTION

1—All lands, &c., in Newfoundland to be
"chattels real."

SECTION

2—Rights and claims to land, &c., to be determined according to foregoing section.

1. All lands, tenements, and other hereditaments in Newfoundland and its dependencies, which by the common law are regarded as real estate, shall, in all Courts of Justice in this island, be held to be chattels real, and shall go to the executor or administrator of any person or persons dying, seized or possessed thereof, as other personal estate now passes to the personal representatives, any law, usage or custom to the contrary notwithstanding.

2. All rights or claims which have heretofore accrued in respect to any lands or tenements in Newfoundland, and which have not already been adjudicated upon, shall be determined according to the provisions

of the foregoing section ; but nothing herein contained shall extend to any right, title, or claim to any lands, tenements or hereditaments, derived by descent, and reduced into possession before the twelfth day of June, anno Domini eighteen hundred and thirty-four.

TITLE IX.

CHAPTER 36.

OF THE REGISTRATION OF DEEDS.

SECTION	SECTION
1—Appointment and liabilities of registrars.	11—Tacked mortgage.
2—Deeds to be registered in district where lands, &c., situate.	12—Registry of release.
3—Manner of registering.	13—Subpœna for witnesses.
4—Proof of deeds within the colony.	14—Registry from certified copy.
5—Proof of deeds abroad.	15—Deeds registered prior to 9th of June, 1846, to be again registered free.
6—Proof of decrees, &c.	16—Chapter not to extend to leases.
7—Proof when witnesses dead, &c.	17—Registry of wills.
8—Power of attorney may be registered.	18—Deeds relating to personal chattels.
9—Registrar to endorse certificate on deed, &c.	19—Time of registry.
10—Deeds not registered, fraudulent and void in certain cases.	20—Fees.
	21—Registrar for central district to account to the Government.
	22—Provision for vacancies of offices.

1. The Chief Clerk of the Supreme Court shall be the registrar of deeds for the central judicial district, and the Chief Clerk on the northern circuit shall be the registrar of deeds for the northern judicial district. The registrar of deeds for the southern district shall be an officer appointed by the Governor in Council, and the registry shall be kept in St. John's; and in the central and northern districts a registration office shall be kept by such registrars, respectively, at such places as the Governor in Council may appoint, provided with fireproof safes for the safe custody and preservation of all records, books and papers of registry, and all deeds and writings deposited for registration; and if either of such registrars shall be guilty of any neglect or fraudulent practice in the performance of the duties of his office, he shall be liable for all damage to the party injured, to be recovered, with costs of suit, in any Court of Record.

2. All deeds, wills, decrees, judgments, conveyances, and other assurances whatsoever, whereby any lands or tenements in this colony or

its dependencies shall be hereafter granted, conveyed, devised, mortgaged, charged, or otherwise affected in any manner whatsoever, having been proved in manner hereinafter provided, shall be registered at the registration office for the district in which such lands or tenements are situated, in suitable books of registry; and a double index to such books of registry shall be kept by each of such registrars, to contain, in case of deeds and writings other than decrees and judgments, the names of the parties, thereto, the situation of the property, the character of deed, and the date and consideration; and in cases of decrees and judgments, the dates thereof, the names of the plaintiffs and defendants, the situation of the property, and the Court in which such decrees or judgments were made.

3. When any such deeds, wills, decrees, judgments, conveyances, and other assurances shall be duly proved in manner hereinafter provided, and deposited in the registration office for the district wherein the lands or tenements affected shall lie, such registrar shall, upon receiving the fees payable to him by virtue of this chapter, copy a memorial of the same into the books of registry, and also enter therein copies of all plans and schedules by the parties depositing the same; and every such memorial shall contain a statement of the year and day of the month in which such deed, will, decree, judgment, conveyance or other assurance shall bear date, the names and additions (if any) of all and every the parties, as well as the names and additions (if any) of the subscribing witnesses thereto, the signatures of the parties executing the same, the description at length of the lands or tenements conveyed or charged, or intended to be conveyed, charged or affected by such deed, will, decree, judgment, conveyance or other assurance, as the same are therein described, the consideration of every such deed, conveyance or other assurance, and the condition for defeazance, if any; and in cases of decrees, wills and judgments, the certificate under the seal of the Court wherein such decree or judgment was passed, or such will proved: all which particulars shall be entered and recorded in the said book of registry, with all convenient despatch, in the order of time in which the same may have been so proved and deposited: Provided that the registrar for the southern district shall register in full, as is hereafter provided for future registrars for the central and northern districts.

4. All such deeds, conveyances and other assurances aforesaid, executed within this colony, shall be proved by the affidavit of a subscribing witness or any party executing the same, or upon the personal

acknowledgment of a party from whom an interest shall pass; such affidavit or acknowledgment to be made before either of such registrars, a Judge, or Commissioner of affidavits of the Supreme Court, or a Justice, who shall sign a certificate on such deed, conveyance or other assurance, or on a paper annexed thereto, declaring such attestation or acknowledgment, and the date thereof; and such certificate and affidavit shall be registered.

5. All such deeds, conveyances and other assurances aforesaid, executed out of this colony, may (if the party or witness be within the colony at the time of proof) be proved in the manner prescribed in the foregoing section, and if such be not the case they shall be proved in the manner prescribed in the preceding section before a Judge of a Court of Record, the Mayor or chief Magistrate of any city or town, a Justice, a British ambassador, Consul, Vice-consul or Consular agent, residing respectively at or near the place where the witness or party acknowledging may reside, and the attestation or acknowledgment, with the date thereof, shall be certified under the seal of such Court, city, or town, or under the hand and seal of a notary public; and such attestation, certificate, and affidavit, shall also be registered.

6. All such decrees and judgments aforesaid shall be proved by a copy under the seal of the Court, and certified by the Clerk thereof.

7. When all the subscribing witnesses to the execution of any such deed, conveyance or other assurance aforesaid, and all the parties thereto, shall be dead, or when the deed, conveyance or other assurance, having been executed in this colony, the witnesses to the same and parties thereto shall be absent therefrom, the registrar shall register such deed, conveyance or other assurance, upon sufficient proof upon oath of such death or absence, of the hand-writing of any of the subscribing witnesses thereto, or of the party or parties executing the same from whom some interest shall pass, such proof to be made before either of such registrars or a Judge of the Supreme Court, a Commissioner of affidavits or a Justice; and a certificate of such proof shall be endorsed on such deed, conveyance or other assurance, or annexed thereto and registered therewith.

8. When any such deed, conveyance or other assurance, shall be executed under a power of attorney, the power may be registered upon being duly proved in manner herein provided for the proof of deeds; and no registry of a deed so executed shall be valid unless such power be registered within six months after the registry of such deed, or unless a deed duly proved in manner aforesaid subsequently confirm-

ing the execution of the first deed, conveyance or other assurance, be registered within that period in the registration office of the district wherein the lands or tenements affected are situate.

9. The registrar shall endorse and sign upon every such deed, will, decree, judgment, conveyance or other assurance, a certificate in which shall be expressed the day and time when the same was actually proved and deposited for registration, and the volume and page in which the registry thereof is entered; and every such certificate so endorsed and signed shall be taken and allowed as evidence of the time when the same was so proved and deposited, and of the registry thereof.

10. All such deeds, conveyances or other assurances, affecting any lands or tenements in this colony, made after the twenty-seventh day of March anno Domini eighteen hundred and sixty-two, and not duly proved and registered, and every mortgage by deposit of deeds without writing, shall be judged fraudulent and void both at law and in equity against any subsequent purchaser or mortgagee for valuable consideration who shall first register his deed, conveyance or mortgage of such lands or tenements, or against any trustee under subsequent insolvency, or against any creditor who shall have actually seized or levied under attachment or execution: Provided that such attachment, with a description of the property attached, to be entered by the Sheriff in his office books immediately after such attachment, shall be executed and duly returned with the writ.

11. No mortgage affecting any such lands or tenements shall have any priority by reason of being held by or vested in the same person with another mortgage of prior date and registry.

12. The registrar shall not be compelled to copy in full the release or transfer of a mortgage of any such lands or tenements, but he shall register a memorial of such release or transfer, to contain the names of the parties and of the subscribing witnesses thereto, the date thereof, and the consideration therefor, and also shall enter a reference to the volume and the page of the registry of such mortgage, and on such page shall make a marginal note of such release or transfer.

13. The process of subpcena may be issued out of the Supreme Court as in ordinary cases, with the necessary variation in form, to compel the attendance of any witnesses or parties to any such deed, conveyance or other assurance aforesaid, or the production thereof for proof, that the same may be registered; and such Court or a Judge thereof shall have power to punish any disobedience to such subpcena by process of contempt; but no witness or party shall be compelled to pro-

duce under such subpoena any deed, will, conveyance or other assurance, which he would not be compelled to produce on a trial in a Court of law or equity ; and every such witness or party shall be entitled to be paid the customary allowance to witnesses.

14. When any such deed, conveyance or other assurance, shall be executed out of this colony, and duly proved in manner hereinbefore provided, the registrar of the district wherein the lands or tenements affected thereby are situate shall register such deed, conveyance or other assurance, and the certificate of proof, upon the production to him of a copy thereof, authenticated by a certificate under the hand and seal of a Judge of a Court of Record, chief Magistrate, Mayor of any city or town, British ambassador, Consul or Vice-consul, at or near the place where the parties executing the same, or a subscribing witness thereto, may reside ; and the registrar shall also register such last certificate, and such registration shall be as valid, to all intents and purposes, as if the original deed, conveyance or other assurance, had been produced to such registrar.

15. Any person who shall hold any deed, will, conveyance or other assurance, affecting any lands or tenements in this colony, executed before the fire in St. John's on the ninth day of June, anno Domini eighteen hundred and forty-six, whereby several volumes of the registry of deeds of the central district were destroyed, and which had been duly registered in any of the volumes so destroyed, may present such deed, will, conveyance or other assurance, to the registrar of deeds for the central district, who shall register a memorial thereof free of charge.

16. Nothing in this chapter contained shall extend to leases at a rack rent.

17. Where any will is proved and filed with the registrar of probates, a certified copy thereof under his hand and the seal (if any) of the probate Court may be registered in the registration office for the district wherein the lands or tenements affected by such will lie, without further proof.

18. All bills of sale, conveyances and mortgages of personal chattels in this colony, being deeds of gift, or wherein the *bona fide* consideration therefor shall exceed the sum or value of two hundred dollars, and where the actual possession of such chattels shall continue in the grantor or mortgagor, shall be registered in the registration office for the district in which such grantor or mortgagor shall reside ; and the registrar for such district shall register, upon payment of fees, such

bills of sale, conveyances and mortgages, upon the same being proved in manner herein provided for the proof of deeds, and deposited with him for registration ; and all such bills of sale, conveyances or mortgages not registered shall be adjudged fraudulent and void as against a subsequent purchaser or mortgagee for valuable consideration who shall first register his bill of sale, conveyance or mortgage, and also as against any subsequent and actual attachment or levy under process of any of the Courts of this island upon such personal chattels, and also as against a trustee under subsequent insolvency:

19. Every deed, will, conveyance and other assurance aforesaid, shall be held to be duly registered from the time it shall have been duly deposited and proved in manner aforesaid.

20. The registrars of deeds shall be entitled to receive the following fees from parties depositing deeds for registration :

For registering all deeds, wills, decrees, judgments, bills of sale, conveyances, mortgages, and the certificates thereto required to be registered, where the actual value of the property passing thereby shall not exceed four hundred dollars..... \$2.00

Where such value shall exceed four hundred dollars and be under two thousand dollars, two dollars for the first four hundred dollars, and one dollar for every additional four hundred dollars ; and where the value shall exceed two thousand dollars, the sum of fifty cents for every four hundred dollars over that amount.

For swearing any affidavit	0.20
For registering any release or transfer of mortgage ...	1.00
For every search	0.20
For every certificate granted	0.50
For registering any power of attorney	2.00

Provided, that the present registrar for the northern district, during his incumbency, shall be entitled to receive the following fees from parties depositing deeds for registration :

For the verification, indorsement and registry of a deed or will under four hundred dollars ... \$2.00

And when the value exceeds four hundred dollars, a per centage of one per cent. for the first four hundred dollars, and one dollar in the four hundred dollars for all above that amount ; and for other matters not herein specified, the fees hereinbefore provided.

21. The registrar of deeds for the central district shall render to the Governor in Council, half-yearly, for the use of the Legislature, accounts of all registration fees received by him, the said fees to be paid in half-yearly to the Receiver General, save and except the fees payable by virtue of the eighteenth section of this chapter.

22. Upon a vacancy occurring in the office of registrar for the central or northern district respectively, the Governor in Council may sever and separate the offices of Chief Clerk of the Supreme Court and of Chief Clerk on the northern circuit from the offices of Registrar of deeds for the central and northern districts respectively; and the registrars of deeds for the northern and central districts to be hereafter appointed, in registering deeds, wills, decrees, judgments, conveyances and other assurances, shall copy the same in the book of registry in full and at length, instead of a memorial thereof, as now permitted by the third section of this chapter.

TITLE X.

Landlord and Tenant.

CHAPTER 37.

OF THE RECOVERY OF POSSESSION OF TENEMENTS, IN CERTAIN CASES.

SECTION

- 1—Proceedings before Justice of the Peace.
- 2—Service of notice of application.
- 3—Appeal to Supreme Court.
- 4—Bond to be approved.

SECTION

- 5—Non-liability of Justice or constable.
- 6—Forcible entry and detainer.
- 7—Fees.
- 8—Interpretation clause. Schedule.

1. Whenever the term or interest of the tenant of any house or land, held by him either at will or for a term of years, either without being liable to the payment of rent or at a rent not exceeding one hundred dollars annually, shall have been duly determined, or whenever such tenant shall be a half-year in arrear in payment of his rent, and there shall be no sufficient distress upon the premises, the said rent not being for ground on which a house shall have been built by the tenant, and such tenant or other person who shall occupy any part of the premises shall neglect or refuse to quit and deliver up possession of the same, the landlord of the said premises or his agent may cause the person so neglecting or refusing to quit and deliver up possession to be served (in the manner hereinafter mentioned) with a written no-

tice in the form set forth in the schedule to this chapter, signed by the landlord or his agent, of his intention to proceed to recover possession under the authority of this chapter; and if the tenant or occupier shall not thereupon appear at the time and place appointed in such notice, and show, to the satisfaction of a stipendiary Justice of the Peace, as hereinafter mentioned, reasonable cause why possession should not be given under the provisions of this chapter, and shall still neglect or refuse to deliver up possession of the premises or any part thereof of which he is then in possession to the said landlord or agent, such landlord or agent may give to such stipendiary Justice of the Peace proof of the holding, and of the end or determination of the tenancy, or of the rent being in arrear and unpaid as aforesaid, and no sufficient distress on the premises to satisfy the same; and upon proof of the service of the notice, and of the neglect or refusal of the tenant or occupier to quit, such stipendiary Justice of the Peace shall issue a warrant, directed to the constables of the district, commanding them within a period to be therein named, not less than five nor more than fifteen days from the date of such warrant, to enter (by force if needful) into the premises and give possession of the same to the landlord or agent: Provided that in the case of a tenant sought to be ejected for non-payment of rent as aforesaid, the Justice may vacate his warrant if the rent be paid within the period to be named therein as aforesaid, together with the costs of the landlord's proceedings: Provided that entry upon any such warrant shall not be made at any time except between the hours of nine in the morning and four in the afternoon; and also, that nothing herein contained shall protect any person on whose application and to whom any warrant shall be granted from any action which may be brought against him by any such tenant or occupier for or in respect of such entry and taking possession, where such person had not, at the time of granting the same, lawful right to the possession of the said premises.

2. Notice of application intended to be made under this chapter may be served either personally or by leaving the same with some person being in and apparently residing at the place of abode of the person so holding over or being in arrear as aforesaid; and the person serving the same shall read over the same to the person served, or with whom the same shall be left as aforesaid, and explain the purport and intent thereof: Provided, that if the person so holding over or being in arrear as aforesaid cannot be found, and the place of abode of such person shall either not be known or admission thereto cannot be obtained for

serving such notice, the posting up of the said notice on some conspicuous part of the premises shall be deemed to be good service upon such person.

3. Any person who shall consider himself aggrieved by the decision of any Justice in pursuance of this chapter, may appeal from such decision to the Supreme Court at the first sittings thereafter, on entering into a bond, in the form set forth in the schedule to this chapter annexed, with two sureties, as hereinafter mentioned; and the decision of such Court as last aforesaid shall be final: Provided, that the penal sum of such bond shall not exceed two hundred dollars.

4. Every such bond as aforesaid shall be made to the landlord or his agent, and the same, and said sureties, shall be approved of in writing on said bond by said Justice; and if the bond so taken be forfeited, or if upon the hearing of such appeal for the securing of which such bond was given the Court before whom the same shall be heard shall not certify that the condition of the bond hath been fulfilled, the party to whom the same shall have been made, as aforesaid, may bring an action and recover thereon: Provided, that the Court before whom such an appeal shall be heard may, by rule of Court, give such relief to the parties upon such bond as may be agreeable to justice; and such rule shall have the nature and effect of a defeasance of such bond, and such Court may make such order as to the costs as may appear reasonable.

5. No action or prosecution shall be brought against the Justice by whom such warrant shall have been issued, or against any constable or peace officer by whom such warrant shall have been executed, for issuing such warrant or executing the same by reason that the person on whose application the same was granted had not lawful right to the possession of the premises.

6. In cases of wrongful and forcible entry and detainer of lands or tenements, any stipendiary Justice within whose jurisdiction the land or premises lie, on complaint on oath being made, shall summon such person so in possession to answer such complaint, and, if he shall adjudge in favour of the complainant, punish the defendant, if he shall see fit, by fine not exceeding twenty dollars and costs; and in case of non-payment of such fine and costs within a time to be appointed by such Justice, may arrest and imprison the defendant for any term not exceeding one month; and also issue his warrant to take possession as in other cases provided for by this chapter. The provisions of this section shall not apply where the party complained of, or the person under whom he claims, has been in quiet possession for one year before the making of the complaint.

7. The following scale of fees shall be paid in the first instance by the landlord or agent to the Clerk of the Peace and constables for proceeding under this chapter, and may be levied by execution on the goods and chattels of the tenant or the person wrongfully holding over:

Notice and service .....	.....	.....	.....	.....	\$1.00
Complaint .....	.....	.....	.....	.....	0.50
Hearing .....	.....	.....	.....	.....	0.25
Warrant to take possession .....	.....	.....	.....	.....	1.50
Mileage, per mile .....	.....	.....	.....	.....	0.25

8. In construing this chapter, the word "premises" shall signify lands and houses and tenements, and the word "agent" shall signify any person usually employed by the landlord in the letting of the premises, or in the collection of the rents, or specially authorized to act in the matter.

SCHEDULE.

NOTICE OF LANDLORD TO TENANT.

I, _____ (owner, or agent to the owner, as the case may be), give you notice that unless peaceable possession of the (shortly describing the premises), situate _____ which was held (of me or of _____ as the case may be), which expired or was determined on _____ and which is now held over and detained from _____ (or for which six months rent is in arrear and unpaid, and no sufficient distress to satisfy the same,) be given to _____ on or before the expiration of seven days from the service of this notice, unless the rent so in arrear and unpaid as aforesaid be paid, I shall on the _____ day of _____ apply to one of her Majesty's stipendiary Justices of the Peace, for the _____ district of _____ to issue his warrant directing the constables of the said district to enter and take possession of the said _____ and to eject any person therefrom.

(Signed,)

A. B.

(Owner or agent.)

To Mr. C. D.

(The party in possession.)

COMPLAINT BEFORE JUSTICE OF THE PEACE.

The complaint of _____ (owner or agent), made before me, _____ one of her Majesty's stipendiary Justices of the Peace, who saith that the said _____ did let to _____ (premises), for _____ under a rent of _____ and the said tenancy was determined on the _____ (or "that six months rent was in arrear and unpaid, and no sufficient distress to be found on the prem-

ises to satisfy the same") and that on the
 the said did serve on (the tenant overholding) a notice in
 writing of his intention to apply to recover possession, a duplicate of
 which notice is hereto annexed (describing the mode of service); and
 that notwithstanding the said notice, the said
 refused (or neglected) to deliver up possession of the said premises, and
 still detains the same.

(Signed,)

A. B.

Taken before me on oath, at

this day of A. D.

E. F., J. P.

WARRANT TO TAKE POSSESSION.

Whereas (set forth complaint,) I, one of her Majes-
 ty's stipendiary Justices of the district of do authorize
 and command you, on any day within days from the date
 hereof, to enter, by force if needful, and with or without the aid of
 (owner or agent,) or other person, into and upon (the premises), and
 to eject thereout any person, and of the said full
 and peaceable possession to deliver to the said (the owner or agent.)

Given under my hand and seal this day of A. D., 18
 To

and all other constables for the district of

COMPLAINT ON FORCIBLE ENTRY.

The complaint of (owner or agent) made before me
 one of her Majesty's stipendiary Justices of the
 Peace, who saith that within one year, has taken wrong-
 ful and forcible possession of premises, belonging to
 and still holds possession of the same, and refuses to deliver up the
 said premises to
 Sworn, &c.

SUMMONS.

Summon to answer who
 complains that has taken wrongful and forcible
 possession of (premises) belonging to the said
 and still refuses to deliver up the same to and to show
 cause why he should not be fined or imprisoned thereupon according
 to law.

FORM OF BOND.

Know all men by these presents, that we, A. B., C. D., and E. F.,
 of are held and firmly bound unto G. H., of

in the penal sum of dollars, to be paid to the said G. H., his executors, administrators or assigns, and for which payment well and truly to be made we jointly and severally bind ourselves, our executors and administrators, by these presents.

Sealed with our seals, and dated at
this day of A. D., 18

The condition of the within written recognizance is such that if the said A. B. shall, in the term of the Supreme Court of this colony, now next following, to be held (at St. John's or on the circuit, as the case may be), enter and prosecute an appeal against a certain judgment bearing date the day of and made by one of her Majesty's stipendiary Justices of the Peace, in a proceeding for summary eviction under the law providing for the recovery of tenements after due determination of the tenancy, and in the case instituted by the said G. H.; and further, that if the said A. B. shall abide by and duly perform the order of the Court to be made upon the trial of such appeal, then the said recognizance to be void, otherwise to remain in full force and virtue.

Signed, sealed, and delivered in the presence of

Seal.

Seal.

Seal.

TITLE XI.

Of the Constabulary.

CHAPTER 38.

OF THE CONSTABULARY AND SPECIAL CONSTABLES.

SECTION

- 1—Organization of Constabulary force.
- 2—Its designation.
- 3—Number, &c.
- 4—Head-quarters.
- 5—Inspector and General Superintendent.

SECTION

- 6—Rules to be published.
- 7—Special constables, &c.
- 8—Expenditure for maintenance of force.
Subject to revision by Legislature.

1. The Governor in Council may organize and maintain an efficient constabulary force in this colony, for the preservation of the peace, and the protection of life and property.

2. The force shall be designated the Constabulary force of Newfoundland.

3. The Governor in Council may prescribe the number of men of which such force shall be composed, and make all proper and necessary orders, rules and regulations for the appointment, governing, regulating, arming, clothing, equipping, lodging and paying of the officers and men of the said constabulary force, and for regulating the residence, classification, rank, service, instruction and distribution of the said force, and for its government generally.

4. The head-quarters of the said force shall be at St. John's, and all future constabulary appointments in the said island shall be made from said force.

5. There shall be an Inspector and General Superintendent of the Constabulary force of Newfoundland, who shall have control over and charge of the whole constabulary force of the colony, subject to the orders and directions of the Governor in Council: Provided that out-port constables already appointed shall not be superseded under nor be subject to the provisions of this chapter, but they shall obey all lawful orders and instructions given them by the said Inspector and General Superintendent.

6. The rules and regulations that may be made in pursuance of the provisions of this chapter shall be published in the *Royal Gazette* of this Island, and after such publication shall have the same force and effect as if they were specially enacted by this chapter.

7. Whenever it shall be found that the ordinary constabulary force is insufficient to maintain the public peace of any locality, any stipendiary Magistrate, or in his absence a Justice, may call on and appoint such number of persons as may be deemed necessary to act as special constables in such locality; and every stipendiary Magistrate or Justice may administer to every person so appointed the following oath:

I, _____ do swear that I will well and truly serve our Sovereign Lady the Queen in the office of special constable for the district of _____ without favor or affection, malice or ill will; and that I will, to the best of my power, cause the peace to be kept and preserved, and prevent all offences against the persons and properties of her Majesty's subjects; and that I will discharge the duties of my said office faithfully, according to law. So help me God.

And if any person, being so called on or appointed a special constable, as aforesaid, shall refuse to take said oath when required by the stipendiary Magistrate or Justice so appointing him, he shall be liable to be convicted thereof, forthwith, before the stipendiary Magistrate or Justice so requiring him, and to forfeit and pay such sum of money,

not exceeding twenty dollars, as to said Magistrate or Justice may seem meet, or imprisonment for a period not exceeding two calendar months : Provided that whenever it shall be deemed necessary to nominate and appoint such special constables, notice of such nomination and appointment, and of the circumstances which rendered such nomination and appointment necessary, shall be forthwith transmitted by the stipendiary Magistrate or Justice making such appointment to his Excellency the Governor in Council.

8. The expenditure for the maintenance of the said force shall be subject to the annual revision and vote of the Legislature.

TITLE XII.

Of the Criminal Law.

CHAPTER 39.

APPLICATION OF ENGLISH LAW AND PRACTICE.

SECTION

- 1—English criminal law to apply to this colony.
- 2—Application of penalties.
- 3—Appellate jurisdiction of Supreme Court.

SECTION

- 4—Certain English statutes to be in force.
- 5—Local laws to be regarded as cumulative remedies.

1. In all cases not provided for by local enactment the law of England, as to crimes and offences, shall be the law of this island and its dependencies, so far as the same can be applied,—subject to such amendments, alterations, and further enactments of the Imperial Parliament as may hereafter be made, and which shall, after twelve months from the passing thereof, respectively be the law of this island and its dependencies : Provided, that between the time of the passing of any law and its coming into force in this island and its dependencies, the law as it previously stood shall continue to be in force therein.

2. All pecuniary penalties imposed by any law of England which shall, according to the provisions of this chapter, be in force in this colony, shall be adjudged to be distributed in the following manner, namely: such part to the informer as the law of England may pro-

vide, and the remainder, or the whole where no part shall go to the informer, to be paid into the public treasury for the use of the colony.

3. Where by any act of the Imperial Parliament any criminal jurisdiction, or authority by way of appeal, adjudication of reserved points, removal, or otherwise, is or shall be vested in the English Courts of Queen's Bench, Common Pleas and Exchequer, or any of them, or the Justices or Barons thereof, or any number of such Justices or Barons, or in any other superior Court or Judges, such jurisdiction or authority shall be exercised by the Supreme Court or the Judges thereof, as in the case of appeals provided by the third section of the ninth chapter of these consolidated statutes relating to the Supreme Court and the Judges thereof.

4. The act of the Imperial Parliament, passed in the eleventh and twelfth years, of the reign of her present Majesty, (chapter forty-two,) entitled "An act to facilitate the performance of the duties of Justices of the Peace out of sessions, within England and Wales, with respect to persons charged with indictable offences;" and another act of the same year and reign, (chapter forty-three,) entitled "An act to facilitate the performance of the duties of Justices of the Peace out of sessions, within England and Wales, with respect to summary convictions and orders;" also an act passed in the eleventh and twelfth years of the reign of her present Majesty, (chapter forty-four,) entitled "An act to protect Justices of the Peace from vexatious actions for acts done by them in execution of their office;" also an act passed in the twentieth and twenty-first years of the reign aforesaid, (chapter forty-three,) entitled "An act to improve the administration of the law, so far as respects summary proceedings before Justices of the Peace;" also, an act passed in the twenty-eighth and twenty-ninth years of the reign aforesaid, (chapter one hundred and twenty-seven,) entitled "An act to amend the law relating to small penalties;" shall as heretofore extend to and be the law of this colony so far as the same can be applied. In all cases in which statutes of the Imperial Parliament of Great Britain, in amendment or alteration of the criminal law in England, are or shall hereafter be held to apply to this colony, all statutes now or hereafter to be passed relating to jurisdiction, power, practice, and protection, having reference to the operation or execution of such statutes, shall be held also to extend to and be the law of this colony after twelve months from the passing of the same, so far as the same can be applied.

5. Where any mode of practice is or hereafter may be prescribed by

a local law, which may or can be applied for the purpose of carrying out the provisions of any Imperial act which shall be held to extend as aforesaid to this colony, such mode of practice may be used, and shall be regarded as a cumulative remedy.

CHAPTER 40.

CERTAIN OFFENCES TRIED SUMMARILY.

SECTION

- 1—Malicious injuries to property, penalties.
- 2—Arrest of offenders.
- 3—Firing woods, &c.

SECTION

- 4—Stealing codfish.
- 5—Provisions of this chapter to be concurrent with the law of England.

1. If any person shall wilfully or maliciously do or commit any damage, injury, or spoil, to or upon any building, fence, hedge, gate, style, tree, woods, underwood, orchard, garden, nursery-ground, crop, vegetable, plant, enclosed land, or other matter or thing growing or being thereon, or to or upon real or personal property of any nature or kind soever, or shall cut or carry away, or cause to be cut or carried away, any trees, logs, timber, or other woods, or break down, cut or carry away any fence, gate, pale or post, standing on or being upon any lands in this colony, without first obtaining a license from the owner thereof or from his agent, and shall be proceeded against therefor within one month next after the committing of such injury or trespass, before any Justice for the district or place where such offence shall have been committed, and shall be convicted thereof, either by the confession of the party offending, or by the oath of one or more credible witness or witnesses, or of the party aggrieved in the premises, such person so offending and being thereof convicted as aforesaid shall forfeit and pay to the person aggrieved such a sum of money as shall appear to such Justice to be a reasonable satisfaction or compensation for the damage, trespass, injury or spoil so committed, not exceeding in any case the sum of twenty-five dollars, over and above the costs of recovering the same, which said sum of money and costs shall be paid to the person aggrieved; but in case such conviction shall take place on the sole evidence of the party aggrieved, then and in such

case such satisfaction and compensation shall be paid into her Majesty's treasury for the use of the colony; and in default of payment of the sum of money in which the offender shall have been so convicted as aforesaid immediately, or within such time as the Justice shall appoint at the time of conviction, together with all costs, charges and expenses attending the conviction, then such Justice shall commit such offender to the common gaol for any term not exceeding one month, unless such penalty, costs, charges and expenses shall be sooner paid and satisfied.

2. Any constable, or the owner of any property so damaged, injured, cut, taken away or spoiled, and his servant or other person acting by or under his authority, and such person as he may call to his assistance, may, without any warrant or other authority than is by this chapter given, seize, apprehend, and detain any person who shall have actually committed or be in the act of committing any offence against any of the provisions of this chapter, and take him before any Justice in the district or place where the offence shall have been committed; and such Justice shall proceed and act with respect to such offender in the manner by this chapter directed.

3. If any person shall wilfully or carelessly set on fire, or cause to be set on fire, any of the woods, forests, trees, or underbush, in this colony or its dependencies, such woods, forests, trees, or underbush being public or private property, such person shall, on being convicted thereof in a summary manner before any Justice, be subject to a fine not exceeding eighty dollars, or be imprisoned in gaol for a period not exceeding six months; or such person may be indicted for such offence, and tried and sentenced to the like punishment, by and before any Court of record in this colony. Nothing herein contained shall deprive any person who may be injured by such firing and burning of his property of his right of action at law for such damages as he may sustain by reason thereof.

4. Any person who shall feloniously steal, take or carry away any cod fish, green or cured, of a value not exceeding twenty dollars, may be tried in a summary manner before a stipendiary Magistrate, and shall on conviction be subject to imprisonment for a period not exceeding six weeks; and any person subject to imprisonment under this section, may appeal from the judgment or order of such stipendiary Magistrate to the Supreme Court then next to be held at or near the place where such offence shall have been committed, on giving sufficient security to prosecute such appeal, and further to abide by and

perform such order or decree as the said Court may make thereon; and on the hearing of such appeal, such Court may admit further and other evidence than that adduced before the said Magistrate, and may confirm, vary or set aside the judgment of such Magistrate; and make such orders as to the execution of any judgment as to it may seem meet. The appeal provided by this section may be heard before one Judge sitting as the Supreme Court either in St. John's or on circuit.

5. The foregoing enactments shall in no way prevent the operation of any law of England with regard to wilful and malicious injuries which may be in force in this colony, but shall run concurrently therewith.

CHAPTER 41.

OF THE PROTECTION OF ELECTRIC TELEGRAPHS.

SECTION

1—Persons wilfully or maliciously injuring any electric telegraph or appurtenances guilty of felony.

SECTION

2—Court of Quarter Sessions to have jurisdiction over offences.

3—Offenders may be apprehended without warrant.

1. If any person shall wilfully and maliciously, and to the prejudice of any electric telegraph, break, throw down, injure, damage or destroy the same or any part thereof, or any of the station houses, watch houses, posts, rails, wire, machine, machinery, or any other apparatus, works or devices, incidental or relative thereto or connected therewith, or do any other wilful hurt or mischief, or shall wilfully or maliciously obstruct or interrupt the free use of any telegraph as aforesaid, or any of the appurtenances thereof, or obstruct, hinder or prevent the carrying on, completing, supporting and maintaining, using and working of any telegraph already made or established, or hereafter to be made or established, such person shall be adjudged guilty of felony, and the Court before whom such person shall be tried and convicted shall have power and authority to sentence such person to be imprisoned for a period not exceeding one year, with hard labor.

2. The Court of Quarter Sessions of the district where any of the offences mentioned in the first section may be committed, shall have jurisdiction to try, convict and sentence the offender.

3. Any person found committing any offence against this chapter may be immediately apprehended without a warrant by any person, and forthwith taken before some neighboring Justice to be dealt with according to law.

CHAPTER 42.

WHIPPING AND HARD LABOUR.

SECTION

- 1—Persons twice convicted of felony or misdemeanor may be whipped.
- 2—Persons damaging gaol or furniture may be whipped.

SECTION

- 3—Justice may order hard labour with sentence of imprisonment.

1. When any male person shall be convicted in any Court of record or before any Justice of any felony or misdemeanor, and it shall be proved, on or after conviction, to the satisfaction of the Court or Justice, that such person has been previously convicted before any Court of record or Justice in this island of felony or misdemeanor, such first-mentioned Court or Justice may, if it or he shall think fit, direct and adjudge that, in addition to any other punishment that may be by law inflicted for such second offence, such person shall be once, twice or thrice, publicly or privately whipped, and in such adjudication prescribe the number of stripes to be given on each occasion, and such adjudication shall be carried into effect by the gaoler of the prison in which such person may be confined: Provided that not more than twenty-five stripes shall be given at any one time.

2. Every person confined in gaol in this island who shall wilfully injure or destroy any part of the furniture of such gaol, or damage any of the walls, floors, or other parts thereof, or shall assault any officer or prisoner of or in such gaol, shall be guilty of a misdemeanor, and may be tried therefor in a summary manner before any stipendiary Justice of the Peace, and upon conviction shall be subject to further imprisonment, not exceeding six months, and in the discretion of the said Justice shall, if a male offender, also be liable to be punished by whipping, to the extent and in the manner provided in the preceding section of this chapter.

3. In all sentences of imprisonment under summary convictions before a stipendiary Magistrate or Justice, as the case may be, such sentence of imprisonment may be with hard labor during the term of imprisonment, in the discretion of such convicting Magistrate or Justice.

CHAPTER 43.

IMPRISONMENT ON CIRCUIT.

1. The Supreme Court on circuit, before which any person shall be convicted of any offence, and upon such conviction shall be sentenced to imprisonment with or without hard labor, or any Judge thereof, may order and direct that the whole or any portion of such imprisonment shall take place in any gaol or prison in this island, although the same may not be within the limits of the circuit; and a certified copy of the sentence of the Court, or of any order for such imprisonment, under the hand of a Judge or of the Clerk of such Court, shall be a sufficient warrant and authority to all Sheriffs, gaolers and constables respectively, for the removal from one district to another of any such convict, and for the carrying into execution such sentence of imprisonment or order, as the case may be.

CHAPTER 44.

REMOVAL OF CRIMINAL OFFENDERS FROM THIS COLONY.

SECTION

1—Persons convicted of felony, not capital, may be adjudged to leave the colony. Penalty for returning.

SECTION

2—Persons may be removed from one district to another.
3—Imprisonment may be dispensed with or reduced.

1. The Supreme Court, when any person shall be convicted before it

of any felony not a capital felony, if they shall see fit, may adjudge and sentence that such person shall, in addition to any other punishment, or without any other punishment, leave this colony after or at the expiration of such other punishment, where other punishment may be adjudged, and within a time to be named by the Court as part of the sentence; and that the person so adjudged to leave shall remain away either for a term of years or for life; and such Court shall, as part of the original sentence, further adjudge, that in case of such person not departing within the time specified in the sentence, or in case of his returning before the expiration of his sentence, (his punishment in that behalf not being lawfully remitted,) that such person shall be again, arrested and committed to prison, there to remain for such period, not exceeding three years, as the Court may direct, and there be subject to hard labour or otherwise; and such person shall, in the event of his not departing, or of his returning as aforesaid, be liable to arrest and detention by any person at any place within this colony, for the purpose of his being again imprisoned in manner aforesaid; and such arrest, detention and imprisonment may be without warrant.

2. For the purpose of carrying into effect the sentence of the Court, the person so sentenced may be removed from one part of this colony to another, either in the custody of the Sheriff or otherwise as the Court may direct.

3. In cases in which offenders coming within the provisions of this chapter, and who may be sentenced to leave this colony, would, for the felonies of which they may be convicted, be liable to imprisonment according to any law now or hereafter to be in force in this colony, the term of imprisonment prescribed by any such law may be dispensed with or reduced, as the case may be: Provided that this section shall in no wise affect the term of imprisonment which such offenders may be adjudged to suffer by reason of their not departing or of their returning in manner aforesaid.

TITLE XIII.

Of Crown Lands and Mines and Minerals.

CHAPTER 45.

OF THE MODE OF OBTAINING GRANTS.

SECTION

- 1—No grants to aliens.
- 2—How land to be disposed of.
- 3—Grant to be recorded in office of Surveyor General.
- 4—Sale of all lands to be by public auction.
- 5—Where sales to be made.
- 6—Purchasers to pay a deposit.
- 7—Lands offered more than once to be sold at the last upset price.
- 8—Governor may set apart land for public uses.
- 9—Governor may reserve portion of bogs and forests for public use.
- 10—Governor may issue grants to officers of army and navy.

SECTION

- 11—Governor may order surveys.
- 12—Mode of applying for grant.
- 13—Printed forms of petitions for grants supplied.
- 14—Copy of this chapter and all rules shall be deposited in certain offices.
- 15—Surveyor General to furnish returns of lands sold or granted.
- 16—Revenues from the sale, &c., of crown lands to be paid to Receiver General.
- 17—Intruders on crown lands.
- 18—Lots of land not to exceed one hundred acres.
- 19—Certain crown rents remitted.

1. No grant shall be made of any ungranted or unoccupied crown lands within this colony or its dependencies to any person not being a natural born subject of her Majesty, or a denizen, or a naturalized subject of her Majesty.

2. No ungranted or unoccupied crown land shall be disposed of otherwise than by sale, except as hereinafter provided; immediately upon such sale and payment of the purchase price, or so soon thereafter as conveniently may be, a grant of such land in fee-simple shall be issued under letters patent made and passed under the great seal of this island, in customary form, to the purchaser, his assigns and heirs.

3. Before any such grant shall be issued to any person, a record of the same shall be made and preserved in the office of the Surveyor General of the colony, which record may be inspected by any person desiring to examine the same.

4. The disposal and sale of all such ungranted and unoccupied crown land, as aforesaid, shall be effected by public auction, at which such land shall be set up, at a price to be fixed and appointed by the Governor in Council: Provided that such price shall in no case be at a lower rate than fifty cents per acre.

5. All such sales by auction shall be made at the office of the Surveyor General at St. John's, or at the office of the deputy surveyor of the district, or at the place wherein the lands to be sold shall be situated, after due and reasonable notice of the same shall be published in the *Royal Gazette*, and also in the principal locations of the district wherein such lands may be situated; and such notice shall set forth the quantity of such land intended to be sold and the situation and boundaries of the same, together with the upset price thereof, and all such sales shall be made at such times as the Governor in Council shall direct and appoint.

6. All purchasers of such land so sold by auction as aforesaid shall, at the place and time of such sale, immediately pay into the hands of the Surveyor General or the deputy surveyor, respectively, selling such lands, a sum or deposit after the rate of twenty-five cents per acre upon the whole quantity of land so sold and purchased; and for such deposit money the Surveyor General or deputy surveyor shall deliver to the purchaser a receipt in writing specifying the amount paid and the date of the payment, and the remainder of such purchase-price as may be due and payable thereon shall be paid by the purchaser into the office of the Colonial Secretary within four months next after the day of such sale at auction; and in failure of the full payment of such whole purchase-price, at the time and in the manner aforesaid, the deposit money shall become forfeit, and the purchase and sale of such land shall thereupon become null and void.

7. When and so often as it shall happen that any such lands as aforesaid shall have been more times than once, on different days after such public notice as aforesaid, exposed to sale by public auction at an upset price, without effecting a sale of the same, the Governor in Council may sell and dispose of the same, without further public competition, at the last upset price at which such lands shall have been offered by public sale.

8. The Governor in Council may reserve, set apart and appropriate parts or portions of any unoccupied land in any of the districts of this island, or places within its dependencies, for the purpose of erecting court houses, market places, churches, chapels or other places of public worship, or for the erection of school houses, or for any other public use or purpose; and also such portions of unappropriated ships' room, beaches and shores as may be deemed necessary or convenient to set apart for the general and public uses of the inhabitants within any of the districts or places aforesaid.

9. The Governor in Council may order the reservation of such portion of bogs as may be deemed necessary for the supply of manure or fuel to the public, and such portions of forest as may be necessary for the uses of the fishery.

10. The Governor may make and issue grants of crown lands to officers of the army and navy, under such regulations as may from time to time be established or prescribed by her Majesty, and signified to the Governor by her Majesty's Secretary of State for the Colonies.

11. The Governor in Council may order and direct surveys to be made of any portions of crown lands that may be open to the selection of purchasers, and pay out of such disposable moneys as may be in the hands of the Receiver General, and have been appropriated by the Legislature to such service, such sum of money as may be necessary to defray the charges and expenses of such surveys and the costs incurred in the construction of such maps or plans as may be required therein; and such surveys, maps and plans shall be deposited in the office of the Surveyor General, and be open at all reasonable hours to the free inspection of any person requiring to view the same, and public notice thereof shall be duly given by the Surveyor General.

12. When any person shall desire to obtain a grant of such unoccupied lands he shall deliver into the office of the Surveyor General a petition or application for the same, either in writing or printed, addressed to the Governor and signed by the applicant or by his agent; and such petition shall contain all such particulars and be in such form as the Governor in Council shall direct; and the Surveyor General shall immediately, on receipt by him of every such petition, endorse thereon the date of the day whereon he shall receive the same, and also record in a book, to be kept for the purpose, the particulars of such petition in due and regular order, according to the time when such petition shall have been received by him; and such book shall be kept in all particulars as the Governor in Council shall direct and appoint, and shall be open to the inspection of any person who shall require to view the same, on application to the Surveyor General, at his office, at all reasonable hours; and all such petitions so received by the Surveyor General shall, without delay, be laid before the Governor in Council, who may direct the Surveyor General to set up at public competition such lands or any portion thereof for sale in manner hereinbefore provided.

13. For the greater convenience of persons desiring to obtain grants of land, printed forms of petitions for the same shall be supplied to

the offices of the Surveyor General and his deputies, for the use of such persons who, on application at the said offices at all reasonable hours, shall be entitled to receive the same.

14. A copy of this chapter and of all rules and regulations now or hereafter established under its provisions shall be deposited in the office of the Surveyor General, and also in the respective offices of his deputy surveyors, and the same shall be open at all reasonable hours to the free inspection of the public.

15. The Surveyor General shall, every year, furnish to the Governor, for the purpose of being laid before the Legislature, a detailed return of all lands sold or granted within the year ending on the thirtieth day of September then last past, of the sums received for the same, the names of the parties to whom sold or granted, the date of the sale, and all expenses attendant upon the transfer of the said land.

16. The whole of the general and casual revenues that now are or hereafter shall be derived from and out of the sale and rentals of all crown land and ships' rooms within this colony or its dependencies, shall be annually accounted for and paid to the Receiver General for the use of the colony.

17. In cases where persons have intruded on crown lands for agricultural purposes, and have made considerable and meritorious improvements thereon, the Governor in Council may impose a lower rate or price per acre in payment for said land than the price mentioned in this chapter, or give a fee grant thereof or part thereof, according to the circumstances and merits of the case.

18. No lot of land offered for sale under this chapter shall exceed in quantity one hundred acres.

19. From and after the twenty-fifth day of April, in the year of our LORD one thousand eight hundred and seventy-two, the tenants of crown lands whose names are set forth in the schedule hereunto annexed, and whose rents, whether now due or accruing due, and payable to the Government of this colony under and by virtue of any grant or lease from the crown providing for the payment of said rents, shall be and the same are hereby fully released and discharged: Provided that on enquiry, the Governor in Council may release rents due or accruing due from any person omitted in the said schedule from lands used for farming or agricultural purposes outside the limits of the town of St. John's, as defined by chapter eighty of these consolidated statutes, entitled "Rebuilding of St. John's."

SCHEDULE.

GRANTEE.	DATE OF GRANT.	LOCALITY.	ANNUAL RENT.
James Carrol ...	20th June, 1831	Freshwater road	\$0.69
William Walsh..	"	.....	2.77
Michael Rielly...	"	Oxenham	0.52
Martin Ryan ...	"	Cock-pit road ...	3.46
Charles Hutchings	"	Near Waterford bridge	3.46
William Dooling	"	Oxenham road	0.87
Peter Neville ...	"	Pokeham road	5.19
Laurence Maccassy	"	Brookfield	1.38
Edward Gaul ...	"	Freshwater road	2.60
John Neville ...	"	Brookfield	3.46
Dennis Nowlan..	"	Western road	3.46
Thomas Brennan	"	Monday pond	1.38
Thomas Cook ...	"	Brookfield road	1.73
Samuel Carson..	"	Pennywell road	5.19
Peter Neville ...	"	Brookfield road	5.19
Moses Murphy ..	"	"	2.60
Michael Scanlan	"	Brady's road	1.73
Moses Neil	"	Freshwater road	0.69
Patrick Neil ...	"	Near Morley's marsh	2.60
Joseph Skinner	"	Pokeham road	1.04
James Dunn ...	30th August, 1831	St. John's	0.87
Thomas C. Furlong	"	"	1.04
James Purcell...	"	"	1.73

SCHEDULE—(Continued.)

GRANTEE.	DATE OF GRANT.	LOCALITY.	ANNUAL RENT.
Charlotte Parsons	3rd November, 1831	St. John's	\$0.69
Dennis Nowlan	10th November, 1831	Monday's pond	2.31
Patrick Whelan	17th April, 1832	Windsor lake	0.46
John Ryan	19th May, 1832	The Island, St. John's	1.73
James Gibson	7th June, 1832	Brookfield road	8.65
John Murphy	"	"	2.88
Edmund Dunn	21st June, 1832	St. John's	1.73
John Murphy	"	"	1.73
Richard Delaney	"	"	1.73
John Malone	25th July, 1832	Windsor lake	0.69
James Whelan	"	"	1.50
Maurice Kersey	21st Sept., 1832	"	0.69
Nicholas Murphy	12th Nov., 1832	Near Brookfield	2.60
John Harding	30th Nov., 1832	White hills	25.15
Andrew Sullivan	"	Road to Waterford bridge	2.77
Elizabeth Jameson	1st March, 1833	Freshwater road	1.38
Patrick Kenny	4th April, 1833	Near Three-corner pond	1.73
William Murphy	12th Dec., 1833	Near Waterford bridge	1.56
Margaret Parker	26th April, 1834	Torbay road	12.81
Michael Scanlan	"	Brady's path	2.08
Estate W. G. Flood	"	Topsail road	8.65
John D. Flood	"	"	8.65
John Harding	"	White hills	3.46

Michael Deneef	.....	26th April, 1834	.....	Steady water	.....	2.08
Patrick Doyle	.....	"	.....	Near Steady water	.....	2.88
Valentine Merchant.	.....	"	.....	On the Island	.....	3.00
Darby Merrigan	.....	"	.....	West of Monday's pond	.....	6.23
Edward Byrne	.....	"	.....	White hills	.....	4.85
John Coughlan	.....	28th June, 1834	.....	Near Brookfield	.....	3.46
James Healy	.....	23rd Sept., 1834	.....	Near Windsor lake	.....	1.15
John Dunn	.....	31st Oct., 1834	.....	Topsail road	.....	1.38
Michael Cahill	.....	"	.....	Newtown	.....	1.73
John Reddy	.....	"	.....	Strawberry marsh	.....	1.15
William Irwin	.....	"	.....	Upper Long pond	.....	5.19
John Moriarty	.....	23rd March, 1835	.....	Windsor lake	.....	1.15
James Murphy	.....	9th April, 1835	.....	Petty Harbor road	.....	1.15
Thomas Sullivan	.....	18th April, 1835	.....	"	.....	0.92
Michael Dorsey	.....	25th April, 1835	.....	Block-makers Hall road	.....	2.77
William Dyer	.....	5th June, 1835	.....	Outer Cove road	.....	2.42
Thomas McConnan	.....	12th October, 1835	.....	South Side, St. John's	.....	3.12
Patrick Murphy	.....	13th October, 1835	.....	Old Topsail road	.....	2.31
Michael Rielley	.....	24th February, 1836	.....	Morley's Marsh road	.....	5.19
Patrick Tobin	.....	12th April, 1836	.....	Petty Harbor road	.....	1.62
James Dunn	.....	20th June, 1836	.....	Near Monday's pond	.....	4.15
George Quigley	.....	9th Nov., 1836	.....	Upper Long pond	.....	1.38
James Delaney	.....	20th Dec., 1836	.....	Block-makers hall	.....	1.81
Estate P. Tasker	.....	8th June, 1837	.....	Brady's Path	.....	2.60
Robert Thomas	.....	"	.....	"	.....	1.73
Edward Dunn	.....	31st July, 1837	.....	Topsail road	.....	1.96
Philip Stamp	.....	10th Oct., 1837	.....	Monday's pond road	.....	2.48
Michael Barry	.....	21st Nov., 1837	.....	North Oxen pond road	.....	3.46
John Leahy	.....	25th Nov., 1837	.....	"	.....	4.04
Timothy Clancey	.....	1st August, 1838	.....	Brady's path	.....	1.90

SCHEDULE (Continued.)

GRANTEE.	DATE OF GRANT.	LOCALITY.	ANNUAL RENT.
Thomas Quigley	23rd Nov., 1838	North of Upper Long pond	\$3.46
William Vicars	20th Nov., 1838	Outer Cove road	3.12
Mary Bernard	3rd June, 1840	Merry Meeting	13.85
Richard Butler	30th Nov., 1839	Pouch Cove road	3.69
William Fitzgerald	15th Feb., 1840	Near Monday's pond	3.12
Thomas Clooney		River Head	4.62
Rt. Rev. Dr. Fleming	1st. Sept., 1824	Barrens	5.08
Rt. Rev. Dr. Fleming	" 1826	"	9.23
William Irwin	1st Jan., 1858	"	5.77
Caroline Adams	5th Nov., 1850	"	1.73
James Cole	1st Sept., 1826	"	9.23
Thomas Martin		"	6.92
James McCormack	20th Oct., 1805	"	4.62
Rt. Rev. Dr. Fleming	1st Sept., 1826	"	19.96
William Walsh	12th Sept., 1827	Grant A. U.	2.31
William Walsh	1st Oct., 1813	" A. V.	2.31
Samuel White	16th Sept., 1815	" C. I.	2.56
Philip Duggan	"	" C. I.	2.54
James Furlong	"	" C. K.	1.38
Michael Rielley	16th Sept., 1830	" E. M.	1.38
John Flood	16th Sept., 1815	" C. N.	18.00
Patrick Mulloy	6th Sept., 1815	" C. O.	3.69
John Fennell	10th July, 1858	" C. Q.	6.23

William Rielley	.....	6th Sept., 1815	.....	Grant	C. P.	.....	3.69
James Power	.....	"	.....	"	C. R.	.....	6.55
William Bolt	.....	"	.....	"	C. I.	.....	1.38
John Egan	.....	12th July, 1852	.....	"	C. U.	.....	3.81
N. Butler	.....	14th Oct., 1815	.....	"	C. V.	.....	1.38
Ellen Whelan	.....	9th April, 1827	.....	"	C. Y.	.....	1.38
William Thorburn	.....	20th May, 1822	.....	"	C. Z.	.....	1.15
Michael Cahill	.....	3rd Sept., 1850	.....	"	D. J.	.....	1.73
Michael Cahill	.....	"	.....	"	D. H.	.....	1.73
Michael Cahill	.....	"	.....	"	D. M.	.....	1.35
Richard Weir	.....	25th Oct., 1816	.....	"	D. V.	.....	2.54
Richard Weir	.....	18th	.....	"	D. W.	.....	1.38
Estate John Corbin	.....	24th " 1815	.....	"	E. B.	.....	1.96
Thomas Brown	.....	8th June, 1854	.....	"	E. E.	.....	2.83
James McCormack	.....	16th Sept., 1815	.....	"	E. G.	.....	1.96
Robert Snook	.....	10th	.....	"	E. H.	.....	1.38
Mary Hagan	.....	16th	.....	"	E. J.	.....	1.96
John Dakins	.....	1st Aug., 1850	.....	"	E. O.	.....	1.96
Matthew Grace	.....	13th Sept., 1815	.....	"	E. P.	.....	1.38
James Neil	.....	20th Oct., 1815	.....	"	E. Y.	.....	2.54
Michael Allen	.....	16th Sept., 1815	.....	"	F. M.	.....	3.23
J. Minnet	.....	"	.....	"	F. O.	.....	1.38
John D. Flood	.....	1st October, 1813	.....	"	G. B.	.....	2.31
Peter Dooling	.....	"	.....	"	G. F.	.....	2.31
James Power	.....	"	.....	"	G. G.	.....	2.31
Richard Skehan	.....	"	.....	"	G. H.	.....	2.31
Philip Duggan	.....	"	.....	"	G. J.	.....	2.31
John Hearn	.....	"	.....	"	G. H.	.....	2.31
Michael Dunphy	.....	"	.....	"	G. L.	.....	1.73
Michael Power	.....	"	.....	"	G. M.	.....	1.73

SCHEDULE—(Continued.)

GRANTEE.	DATE OF GRANT.	LOCALITY.	ANNUAL RENT.
Joseph Skinner	1st October, 1813.	Grant G. N.	\$2.31
James Butler	"	" G. R.	1.15
William Carter	25th " 1816	" G. S.	1.38
Samuel White	1st " 1813	" G. U.	2.31
John Eagan	14th July, 1853	" G. Y.	2.31
Peter Doyle	24th October, 1815	" H. Y.	2.31
John Henneburry	15th Sept., 1815	" J. L.	13.96
Johanna Clooney	"	" J. N.	2.42
Thomas Martin	"	" J. W.	4.38
Sarah Cleary	"	" J. B.	1.96
Thomas Martin	"	" J. P.	13.96
Patrick Clooney	"	" J. W.	5.31
James Shea	"	" K. F.	2.54
Patrick Kough	"	" K. J.	3.81
Catherine Ryan	16th Sept., 1816	" K. L.	3.58
James Leary	"	" K. N.	2.54
James Cole	"	" K. Q.	3.46
Thomas Kielly	"	" K. S.	1.96
Miles Mahon	25th June, 1819	" L. E.	1.38
Thomas Bearnas	25th October, 1815	" L. G.	2.54
Thomas Skehan	25th June, 1819	" L. J.	1.38
William Walsh	9th April, 1818	" L. N.	2.54

Thomas Power	.....	23rd August, 1822	.....	Grant L.	1.38
John Shean	.....	21st October, 1819	.....	" L. T.	1.38
William Thorburn	.....	"	.....	" L. U.	1.38
Michael Allen	.....	18th Sept., 1822	.....	" L. X.	16.15
Michael Allen	.....	26th June, 1851	.....	" L. Z.	1.38
George Cook	.....	23rd October, 1823	.....	" M. B.	1.38
Joseph Skinner	.....	25th Sept., 1821	.....	" N. D.	4.50
Dennis Nowlan	.....	"	.....	" N. E.	3.23
Michael Rielly	.....	31st October, 1823	.....	" N. J.	1.38
John Rielly	.....	29th Aug., 1821	.....	" O. B.	3.81
James Cuddihy	.....	"	.....	" O. C.	2.54
James Walsh	.....	21st Sept., 1821	.....	" O. O.	2.54
John Casey	.....	"	.....	" O. E.	2.54
Dennis Cormack	.....	"	.....	" O. G.	3.81
John Conway	.....	"	.....	" O. J.	2.54
Thomas Ryan	.....	1st May, 1822	.....	" O. N.	2.54
Edward Murphy	.....	6th March, 1822	.....	" O. P.	1.38
Thomas King	.....	21st Sept., 1826	.....	" P. A.	2.54
Margaret Furlong	.....	25th Sept., 1821	.....	" P. B.	2.54
William West	.....	6th May, 1854	.....	" Q. A.	2.54
Thomas Mahon	.....	30th July, 1822	.....	" Q. D.	2.54
Patrick Kenny	.....	8th Oct., 1823	.....	" Q. M.	1.38
Thomas Walsh	.....	25th " 1821	.....	" R. A.	2.54
Wm. B. Henley	.....	6th Sept., 1822	.....	" R. D.	2.54
Richard Voisey	.....	4th Sept., 1822	.....	" R. E.	1.96
William Avery	.....	16th Oct., 1822	.....	" R. H.	1.38
Richard Doyle	.....	1st May, 1822	.....	" R. S.	5.77
Roger Flavin	.....	20th Oct., 1805	.....	Barrens	5.19
Roger Flavin	Estate of T. Mit-	16th Sept., 1815	.....	Grant E. L.	2.54
Roger Flavin	chell.	"	.....	" F. Q.	1.85

SCHEDULE—(Concluded.)

GRANTEE.	DATE OF GRANT.	LOCALITY.	ANNUAL RENT.
Roger Flavin } Estate of T. Mit-	16th Sept., 1815	Grant F. S	\$1.38
Roger Flavin } chell.	16th October, 1816	" G. J.	1.96
Lieutenant-Colonel Haley	16th Sept., 1815	" K. K.	16.15
Lieutenant-Colonel Haley	"	" K. M.	1.38
Lieutenant-Colonel Haley	"	" M. C.	2.54
William Walsh	20th June, 1831	" No. 236.	2.77
William Walsh	1st Sept., 1825	Barrens, No. 1.	23.88
William Walsh	20th October, 1805	"	4.62
William Walsh	12th Sept., 1827	Grant A. S.	2.31
William Walsh	1st October, 1813	" A. T.	2.31
William Walsh	25th October, 1816	" D. Q.	2.54

CHAPTER 46.

OF LICENSES AND GRANTS IN CERTAIN CASES.

SECTION

1—Free licenses of occupation of ungranted lands.

SECTION

2—Grants in fee to persons cultivating or improving.

3—Mode of application for such grants.

1. The Governor in Council may issue free licenses of occupation, for a term not exceeding five years, of any ungranted and unoccupied wilderness lands, to such person as shall be desirous of permanently settling on and cultivating the same, in quantities not exceeding fifty acres to each settler, such settler being qualified to obtain a grant as in the foregoing chapter provided; and to every such person desirous of erecting a saw or other mill upon any such land, a similar license for two hundred acres of such land; but in no case, whether it be a license for the erection of a saw or other mill, or any grant of land made under the provisions of this chapter, shall there be more than one-third fronting on any river; and in cases of grants on the coast, the frontage on such coast shall not exceed two hundred yards.

2. To such persons as shall have occupied and settled on the land so licensed for a period of five years after the date of the license, and shall have cultivated within that period two acres of the said land, or to such persons as shall have erected a saw or other mill thereon and worked the same for the period of three years, the Governor in Council may issue grants in fee, under the great seal of this island, for the quantity of land specified in such license, upon such person paying the charge of one dollar for each of such grants.

3. Before any such grant shall be issued, the person applying for the same shall file in the office of the Surveyor General a petition setting forth the quantity of land occupied and cultivated by him, with a description thereof, and the general uses for which he intends to apply the land for which he seeks a grant, which petition shall be verified by the oath of the petitioner, sworn before any Justice in this island; but no such grant shall be made unless the land granted shall be surveyed by the Surveyor General or an authorised deputy land surveyor, at the cost of petitioner, unless in case it may appear to the Executive that the applicant resides in such a remote locality that the services of a deputy land surveyor could not be obtained.

CHAPTER 47.

OF MINES AND MINERALS.

SECTION

- 1—Right of search for minerals.
- 2—Grants of land in fee, &c.
- 3—Government agents may inspect works.
- 4—Governor to prescribe rules, &c., for issuing grants.
- 5—Reservation of roads, &c.
- 6—Residue of land after selection to be sold by auction.
- 7—Crown lands may be let at auction.

SECTION

- 8—Forfeiture of leases, &c., on non-performance of conditions.
- 9—Mode of procedure on forfeiture.
- 10—Right to common-law mode of procedure.
- 11—Certain royalties abolished.
- 12— } Exceptions from chapter.
- 13— }
- 14—Meaning of term "colony" herein.

1. The Governor in Council may grant an exclusive right of searching for minerals and mines to any person for any period not exceeding two years from the date of the license, over any space not exceeding three square miles; and the person obtaining the same shall have the right to a grant of any quantity not exceeding one square mile of the land in which he shall discover any mines or minerals, if applied for within the said two years.

2. The Governor in Council may issue grants in fee, or leases for a term of years not exceeding nine hundred and ninety-nine years, of one square mile of land, with the mines and minerals therein, to any person applying for the same; but all grants shall be subject to the condition that should the mines not be actually worked within two years from the date of the grant, or if the grantee, lessee or assignee do not, within five years from the date aforesaid, *bona fide* lay out and expend the sum of ten thousand dollars in and about the working of such mines or minerals, and a further sum of ten thousand dollars within six years from the expiration of the said period of five years, or a *bona fide* expenditure in the aggregate of twenty thousand dollars in and about such working within a period of eleven years from said date, then the said grant shall be forfeited, and the land so granted shall revert to the crown for the use of the colony; and said grants shall also contain such other conditions as the Governor in Council shall deem just, and be subject to the like forfeiture should the said conditions not be complied with: Provided that should the said grantee, lessee or assignee have *bona fide* expended the said sum of twenty thousand dollars within the said eleven years, he shall be entitled to a grant in fee-simple of the said lands, and all mines and minerals

therein contained free from all forfeiture, but subject to all reservations for public purposes in any such grant or lease contained.

3. The agents of the Government shall have free access to, and be at liberty at all reasonable times to inspect and see the state of, the works being carried on on the lands described in any such grant or lease, and true books of account of the working of such mines and minerals shall be kept by the grantee, lessee or assignee, and shall always be open to the inspection of the Surveyor General, or such agents as the Governor in Council may appoint.

4. The Governor in Council shall prescribe general rules and regulations for the issuing and costs of such licenses and grants, which shall be published in the *Royal Gazette* of this island within one month after the making thereof: Provided that the cost of any such license or grant shall not exceed fifty dollars.

5. All patents for mining purposes shall contain such reservations for necessary roads and public works as the Governor in Council may direct, and all patents issued before the twenty-fifth day of April, in the year of our LORD one thousand eight hundred and seventy-two, are hereby declared to be subject to similar reservations.

6. When selection is made, or patent issued, for part of the land under license to search, the residue shall, before being granted, be put up to public auction in lots, as the Governor in Council may direct, after three months' notice in the *Royal Gazette*, and the highest bidder, being qualified as by law required, shall, on payment of the purchase money, be entitled to a grant, subject, however, to the provisions of this chapter.

7. The Governor in Council may cause any of the crown lands of this colony to be let for a term or terms of years at public auction, at the highest annual rent that can be obtained therefor, and execute grants or leases for such term, on such conditions and at such rent as the said land shall be knocked down for at such public sale.

8. On the report of the Attorney General to the Governor in Council that the conditions of any mining lease, grant, or grant of land for erecting a saw or other mill, have not been complied with, and the same is therefore liable to forfeiture, the Governor in Council may direct the Attorney General, or in his absence the Solicitor General, to give not less than thirty days' notice to the holder of any such right of the alleged grounds of forfeiture; and unless such holder shall within that time make it appear to the satisfaction of the Governor in Council that there were no such grounds of forfeiture as are mentioned in said

notice, the said mining lease, grant or grant of land for erecting a saw or other mill shall be forfeited.

9. Upon proof of due service of such notice, or if such person shall be beyond the limits of the colony, or cannot be found within the same, then, upon proof by affidavit of the service of such notice on his attorney, agent, or representative, if any, within the colony, or by publication of such notice for three consecutive months in the *Royal Gazette*, the Governor in Council may escheat such lease, license or grant, upon such equitable terms and conditions as he may deem right, and regulate the expenses thereof, and thereupon order a record of such escheat, under the great seal, to be filed in the Colonial Secretary's office, which record, or a certified copy thereof, under the hand of the Secretary, shall be evidence of such escheat in all Courts.

10. If the holder of such right shall in person, or by attorney, appear on or before the day fixed in the notice for the hearing, and shall notify the Colonial Secretary in writing that he requires the common-law mode of procedure to be pursued, the Governor in Council shall allow the same.

11. On and after the twenty-fifth day of April, in the year of our LORD one thousand eight hundred and seventy-two, save as by this chapter excepted, all royalties, taxes or duties, which by any act, order in council, or patent, grant or lease are imposed, reserved or made payable, for or in respect of any ores or minerals extracted from the lands granted by such patent, grant or lease, are hereby repealed, released and abandoned; and such lands, ores and minerals, shall henceforth be free and exempt from every such royalty, tax or duty, or from forfeiture on account of the non-payment of any such royalty, tax or duty, and from all such now due, and from all fines for and on account of renewal of leases. No such grant or lease shall be forfeited on account of the non-working of the mines or minerals included therein, within the period of two years required by the act twenty-third Victoria, chapter three, or by any rule of the Governor in Council made in pursuance thereof for the actual and effectual working of the same, if the grantee or lessee comply with the requirements as to expenditure set forth in the second section of this chapter.

12. Nothing in this chapter contained shall extend to or affect, or be construed to extend to or affect, any grant or patent already issued, or which may hereafter be issued, under the provisions of an act passed in the seventeenth year of the reign of her present Majesty, entitled "An act to incorporate a company under the style and title

of the New York, Newfoundland, and London Telegraph Company," or under any acts or parts of acts in amendment thereof: Provided that there shall be a remission of all past and future royalty and forfeiture on account thereof, payable or incurred under a grant to the said company bearing date the sixth day of March, anno Domini one thousand eight hundred and fifty-seven, from ores and minerals extracted from lands in the said grant mentioned, to the extent of one square mile in one block, to be defined by survey, and to include the mine on which a large expenditure has been made, and known as the LaManche mine.

13. This chapter shall not apply to, or be construed to affect, the legality or otherwise of any grant, lease or license, made or granted by the Crown before the fourteenth day of May, in the year of our LORD one thousand eight hundred and sixty.

14. The term "colony," in this chapter, shall include dependencies.

TITLE XIV.

Of the Public Revenue.

CHAPTER 48.

OF THE BOARD OF REVENUE.

SECTION

1—Constitution of the Board of Revenue.

2—Pay to non-official members.

SECTION

3—Powers of Board.

1. The Receiver General shall be president of, and with five other persons, to be appointed by the Governor in Council, shall constitute the Board of Revenue, the members of which shall be sworn faithfully to discharge the duties of their office, and shall hold office during pleasure; the President, or in his absence the assistant Collector, and any other two members, shall be a quorum for the transaction of business.

2. There shall be paid to each non-official member, for every day's attendance at the Board, two dollars a day: Provided that the whole amount to be paid to the said Board shall not exceed the sum of two hundred and thirty dollars in any year.

3. The Board shall superintend the working and practical operation

and effect of the revenue system, and report thereon to the Governor when required ; they shall examine disputed claims for drawbacks, and grant certificates therefor, when allowed, and shall make any regulations necessary for preventing fraud in obtaining the same ; they shall direct and carry on prosecutions against delinquent officers and their sureties ; and also prosecutions for seizures, forfeitures, penalties and breaches of revenue laws, over which they shall have a general control ; they may remit penalties in whole or in part, and direct the restoration of property seized, or of the proceeds thereof ; they shall, subject to the control of the Governor in Council, make such regulations as to the removal of spirituous liquors distilled in the colony after payment of duties thereon, and as to the carriage of goods coastwise, as may be necessary and expedient ; they shall have authority to remit in whole or in part the duties on goods lost or destroyed in the warehouses, upon such terms as they may deem just ; and may, under such restrictions and regulations as they may consider expedient, but subject to the control of the Governor in Council, permit permanent or continuing security to be given for duties payable by outport importers, in cases where satisfactory sureties cannot be had on the spot for each successive importation, and also for the payment of duties on goods landed from steamships.

CHAPTER 49.

OF THE CUSTOMS, WAREHOUSES, DISTILLERIES, &c.

SECTION

- 1—Interpretation of terms.
- 2—Governor to appoint revenue officers.
- 3—The Governor may alter limits of ports.
- 4—Appointment of extra officers.
- 5—Officers taking fee or reward to be dismissed.
- 6—Declaration of officer on admission to office.
- 7—Officers to give security.
- 8—Officers not liable to serve in any other public office.
- 9—Public holidays.
- 10—Ship and cargo to be reported on arrival.
- 11—Master to deliver manifest.
- 12—Master of ship arriving coastwise to report.
- 13—Vessels engaged in fishing or coasting trade to report before departure.
- 14—Masters of vessels bound outwards to notify customs as to destination of vessel.
- 15—Goods reported for importation at a port other than that of arrival, or for exportation or coastwise, importer to give bond for payment of duties.
- 16—If seal, &c., be broken, master to forfeit sum not exceeding \$400.
- 17—Entry of goods to be unladen.
- 18—Revenue officers may board vessels.
- 19—Masters of vessels to produce manifest and deliver copy.
- 20—Goods subject to *ad valorem* duty.
- 21—Importer on entry of goods to exhibit invoice and declare on oath known value of goods if required.
- 22—Importer to produce invoice.
- 23—Goods undervalued may be detained and sold.
- 24—Goods subject to duty by weight may be detained and sold, if true weight not given.
- 25—Particulars of entry.
- 26—Entry not valid if goods not properly described.
- 27—Entry by a bill of sight.
- 28—Samples may be taken.
- 29—Bond may be taken for duties.
- 30—Master of steamboat allowed to land and warehouse cargo.

SECTION

- 31—Cattle allowed to be landed on arrival.
- 32—Goods imported must appear in cockets.
- 33—Surplus stores to be treated as imported merchandize.
- 34—If goods be not entered in 20 days, officers may land and secure same. Duties not paid in three months, goods to be sold.
- 35—Duties may be remitted on damaged goods.
- 36—Damaged goods to be examined by officers.
- 37—Governor may appoint warehousing ports.
- 38—Goods may be warehoused without payment of duty.
- 39—Stowage of goods in warehouse, carrying goods to and from warehouse.
- 40—Bond on entry of goods to be warehoused.
- 41—Goods not duly warehoused to be forfeited.
- 42—Account of goods to be taken on landing.
- 43—Samples may be taken.
- 44—Expense of removing and repacking, &c.
- 45—Goods removed from ship, &c., to be warehoused according to regulations.
- 46—Goods, &c., when to be landed.
- 47—Goods entered and landed to be warehoused, though not actually deposited in warehouse, may be afterwards entered for home use or exportation.
- 48—Transfer note of warehoused goods.
- 49—Time wherein warehoused goods are to be cleared. Re-warehousing.
- 50—Sale of goods warehoused but not cleared, exported or warehoused to meet duties thereon.
- 51—Goods warehoused may be repacked, &c.
- 52—Forfeiture of goods for clandestine removal, &c.
- 53—Indemnity to officers in reference to warehoused goods.
- 54—Removal of warehoused goods to any other port of entry, &c.
- 55—Regulation in reference to removal of warehoused goods.
- 56—Warehoused goods liable for duty, &c., at the port of destination.

SECTION

- 57—Warehoused goods entered for exportation. Bond to be given.
- 58—Warehoused goods liable for freight.
- 59—Duties on wines for the use of the officers of her Majesty's forces remitted.
- 60—Drawback.
- 61—Prohibition as to importation of spirits in certain cases.
- 62—Provisions respecting distilleries.
- 63—Entry. Permit.
- 64—Revenue officers to investigate.
- 65—Unreported liquors forfeited.
- 66—If duty not paid liquor may be sold.
- 67—Liquors found in possession of parties, duty not paid and no removal permit, to be forfeited.
- 68—Board to appoint officers to attend distilleries.
- 69—Officers to be sworn.
- 70—Compensation to such officers.
- 71—Punishment of officer neglecting duty.
- 72—Board to make regulations for officers and distilleries.
- 73—Manufacturers to observe regulations, under penalty.
- 74—Vessels, carriages, &c., used in removing goods liable to forfeiture.
- 75—Goods, vessels, carriages, &c., may be seized.
- 76—Collusive seizures, &c.
- 77—Seized goods, if unclaimed after six months, to be condemned, &c.
- 78—Writ of assistance.
- 79—Goods seized to be secured by officer.
- 80—Jurisdiction for prosecution of seizures and penalties.
- 81—Suits to be commenced in the name of officers, &c.

SECTION

- 82—Goods seized for the non-payment of duties.
- 83—No claim to anything seized admitted unless sworn to.
- 84—No person permitted to enter claim unless security given for costs, &c.
- 85—A month's notice to be given to officers.
- 86—Action to be brought within three months.
- 87—Judge may certify probable cause of seizure.
- 88—Tender of amends.
- 89—Judge may certify defendants acted upon probable cause.
- 90—Appropriation of fines and penalties.
- 91—Provision for the recovery and appropriation of fines.
- 92—Limitation of suits.
- 93—Goods landed at Labrador subject to duties.
- 94—Importers at Labrador when to make entry, &c.
- 95—Collector's office on board ship in certain cases.
- 96—Goods forfeited at Labrador may be sold, &c.
- 97—Governor may authorize importation of spirits at Labrador in casks less than 30 gallons.
- 98—Every person concerned in landing goods at Labrador, duty not paid, liable to penalty.
- 99—Penalties at Labrador, how recovered.
- 100—Judge may issue warrant, &c.
- 101—May compel attendance of witnesses.
- 102—Bonds for duties to form prior claims in all cases.
- 103—Forfeiture of vessel includes tackle, &c. Schedule.

1. Whenever the several terms or expressions following occur in this chapter, or in any other acts of the Legislature relating to the matters treated of in this chapter, the same shall be construed respectively in the manner hereinafter directed, that is to say: the term "master" of any ship shall mean "the person having or taking charge of such ship"; and the term "warehouse" shall mean "any place, whether house, shed, yard, timber-pond, or other place in which goods entered to be warehoused may be lodged, kept and secured"; the term "proper officer" shall mean "any officer authorized to do the act referred to"; the term "collector" shall mean "the person collecting the revenue for the port"; and the terms "proprietor, owner, importer and exporter" shall include any person acting on their behalf respectively.

REVENUE OFFICERS.

2. The Governor in Council may appoint proper persons to execute the duties of the several officers necessary to the due collection and management of the revenue now levied, or which may hereafter be levied on goods, wares and merchandize imported into this island and its dependencies, that is to say :

The Receiver General at St. John's, who shall superintend the collection, receipt and payment of all the said revenue, and shall have under his direction and control—

An Assistant Collector at St John's.

Landing and Tide Surveyor.

Two Landing Waiters.

First Clerk and Warehouse Keeper.

Second Clerk.

Third Clerk.

Fourth Clerk and Locker.

Two Lockers.

Tidewaiters.

Boats and hands at St. John's and Harbor Grace.

Sub-Collector at Lamaline.

Ditto Fogo.

Ditto Twillingate.

Ditto Greenspond.

Ditto Gaultois.

Ditto Trinity.

Ditto Harbor Grace.

Ditto Carbonear.

Ditto Brigus.

Ditto Great Placentia.

Ditto Burin.

Ditto Harbor Briton.

Ditto La Poile.

Preventive Officer at Bay Bulls.

Ditto Ferryland.

Ditto Channel.

Ditto Rose Blanche.

Ditto Burgeo.

Ditto Pushtrough.

Ditto English Harbor, Belloram and Bay-de-North.

Preventive Officer at Fortune and Grand Bank.

Ditto	St. Lawrence.
Ditto	LaManche.
Ditto	Little Placentia.
Ditto	St. Mary's.
Ditto	Bay Roberts.
Ditto	Hant's Harbor.
Ditto	Bonavista.
Ditto	Tilt Cove.

Clerk and Landing Waiter at Harbor Grace.

Collector and sub-Collectors for Labrador,

3. The Governor in Council may alter the limits of ports, and abolish any office of sub-collector and substitute a preventive officer therefor, subject to the approval of the Legislature.

4. The Governor in Council, on the recommendation of the Board of Revenue, may appoint from time to time such additional or extra officers and tidewaiters as shall be necessary for the due security and collection of the revenue, and grant to such additional or extra officers and tidewaiters such salaries or allowances as may be deemed reasonable: Provided that no salary or allowance so granted shall exceed in amount the salary or allowance payable to the like officer; and also that a copy of the warrant appointing such additional or extra officer shall be laid before the Legislature, if then in session, or if not then in session, then within one month from the commencement of its next following session.

5. If any officer, clerk, or other person, acting in any office or employment under the provisions of this chapter, shall take or receive any fee, perquisite, gratuity, or reward, whether pecuniary or of any sort or description whatever, directly or indirectly, from any person (not being a person duly appointed to some office under this chapter) on account of anything done or to be done by him in or in anywise relating to his said office or employment, except such as he shall receive under any order or permission of the Governor, such officer so offending shall, on proof thereof to the Governor in Council, be dismissed from his office; and if any person (not being a person duly appointed to some office under this chapter) shall give, offer, or promise to give, any such fee, perquisite, gratuity, or reward, such person, for every such offence, shall forfeit the sum of four hundred dollars.

6. Every person who shall be appointed to any office or employment under this chapter shall, on his admission thereto, make and

sign the following declaration before the Receiver General or the assistant Collector at Saint John's, that is to say :

"I, A. B., do declare that I will be true and faithful in the execution, to the best of my knowledge and power, of the trust committed to my charge and inspection, and that I will not require, take, or receive, any fee, perquisite, gratuity, or reward, whether pecuniary or of any other sort or description whatever, either directly or indirectly, for any service, act, duty, matter or thing done or performed in the execution or discharge of any of the duties of my office or employment, on any account whatever, other than my salary, and what is or shall be allowed me by law, or by any special order of the Governor for the time being."

7. The several officers appointed as aforesaid shall enter into and give such security by bond to her Majesty, with sureties, for the due collection and safe keeping of such public moneys as may come into their hands, and for their good conduct in their respective offices and employments, as the Governor in Council shall deem reasonable and necessary.

8. No person appointed to any office or employment under this chapter shall, during the time of his acting in such office or employment, be compelled to serve in any other public office or employment, or to serve on any jury or inquest, any law, usage or custom to the contrary notwithstanding.

PUBLIC HOLIDAYS.

9. No day shall be kept as a public holiday by the officers appointed under this chapter, except Christmas day, Good Friday, her Majesty's birthday in every year, the first day of every new year, and any days appointed by the Governor by proclamation for a general fast or thanksgiving.

CUSTOMS.

10. The master of every ship arriving in any port or place in this island or its dependencies, whether laden or in ballast, shall come directly, and before bulk be broken, to the office of the Receiver General, assistant or sub-Collector, or other proper officer of the port or district where he arrives, and there make a report in writing to the said Receiver General, assistant or sub-Collector, or other proper officer, of the arrival and voyage of such ship, stating her name and tonnage, the name of the master and the number of the crew of such ship, and whether she be laden or in ballast, and if laden, the marks, numbers, and contents of every package and parcel of goods on board, and where the same were respectively laden, and where and to whom consigned, and where any and what goods, if any, had been unladen

during the voyage, as far as any such particulars can be known to him; and the master shall further produce the certificate of registry of his ship, and shall answer all such questions concerning the ship and cargo and the crew and the voyage as shall be demanded of him by such officer; and if any goods be unladen from any ship before such report be made, or if the master fail to make such report, or make an untrue report, or do not truly answer to the questions demanded of him, he shall forfeit the sum of four hundred dollars, and if any goods be not reported, such goods shall be forfeited.

11. The master of every ship shall, at the time of making such report, deliver to the Receiver General, assistant or sub-Collector, or other proper officer, a manifest of the cargo of such ship, and every such manifest shall set forth the name and tonnage of the ship, the name of the master, and the place or places where the goods, if any, were respectively taken on board, and of the place or places for which they are respectively destined, and shall contain a particular account and description of all the packages on board, with the marks and numbers thereon, and of the sorts of goods, and of the different kinds of each sort contained therein, to the best of the master's knowledge and belief, and the particulars of such goods as are stowed loose, and the names of the respective consignees, so far as the same can be known to the said master; and to such particular account shall be subjoined a general account or recapitulation, in words at length, of the total number of the packages of each sort, describing the same by their usual names, or by such description as the same can be known by, and the different goods therein, and also the total quantities of the different goods stowed loose; and all goods not so manifested shall be forfeited.

12. The master of every ship having on board goods, wares or merchandize subject to duty, arriving coastwise at any port in this island or its dependencies, shall within twenty-four hours after arrival, and before bulk be broken, make due report in such form as may be prescribed for that purpose, containing the several particulars set forth in the eleventh section of this chapter.

13. The master of every vessel engaged in the fisheries or coasting trade of this island or its dependencies, not having on board any goods, wares or merchandize subject to duty, shall, before departure from the port of lading, deliver to the proper officer of customs an entry outward under his hand of such ship, stating the name, country and tonnage of the ship, the name of the master and number of

the crew ; and thereupon the proper officer aforesaid shall give to the master a certificate under his hand that such vessel hath been specially cleared out for the fisheries or coasting trade, and such certificate shall be in force until the thirty-first day of December next after the date thereof, and such vessel shall be exempt from all obligations to clear at any Custom House, upon departure from any port in the said island or its dependencies, during the continuance of the season for which such certificate may have been granted ; and if any vessel shall depart without such certificate the master shall forfeit the sum of two hundred dollars : Provided that in case such vessel have on board, during the continuance of the season for which such certificate may have been granted, any goods, wares or merchandize subject to duty, such vessel shall be subject and liable to the same rules, restrictions and regulations, as vessels bound to ports beyond the seas are subject or liable to, or to such other regulations as to the carrying of goods coastwise as the Board of Revenue may from time to time prescribe.

14. The master of any vessel bound outwards from any port or place in this island or its dependencies to any port or place beyond the seas, shall deliver to the Receiver General, assistant or sub-Collector, or other proper officer, an entry outwards, under his hand, of the destination of such ship, her name, country, and tonnage, (if British, the port of registry,) the name and country of the master, the country of the owners, the number of the crew, and how many are of the country of such vessel ; and before such vessel shall depart, the master shall bring and deliver to the Receiver General, assistant or sub-Collector, or other proper officer, a content in writing, under his hand, of the goods, wares or merchandize laden, and the names of the respective shippers and consignees of the goods, wares or merchandize, with the marks and numbers of the packages or parcels of the same, and shall make and subscribe a declaration to the truth of such content, as far as any particulars can be known to him ; and the master of every vessel bound outwards from any port in this island and its dependencies to any port or place beyond the seas, whether in ballast or laden, shall, before departure, come before the Receiver General, assistant or sub-Collector, or other proper officer, and answer all such questions concerning the vessel and the cargo, if any, and the crew and the voyage, as shall be demanded of him by such officer ; and thereupon the Receiver General, assistant or sub-Collector, or other proper officer, if such vessel be laden, shall make out and give to the master a certificate of the clear-

ance of such vessel for the intended voyage, containing an account of the total quantities of the several sorts of goods, wares or merchandize laden therein, or a certificate of her clearance in ballast, as the case may be; and if the vessel shall depart without such clearance, or if any goods be laden on board any such vessel before reporting outwards, or if the master shall deliver a false content, or shall not truly answer the questions demanded of him, he shall forfeit a sum not exceeding four hundred dollars.

15. Wherever and so often as any goods, wares or merchandize, subject to duty, shall be reported for importation at a port within this island or its dependencies, other than the port at which the importing ship shall first arrive, or for exportation, or shall be entered to be transhipped on board any vessel to be carried coastwise, the proprietor of such goods; wares or merchandize, or his agent, shall give, or procure to be given, security by bond (in such of the approved forms, A, B, C, in the schedule to this chapter, as may be applicable to the case) in treble the amount of duties of importation, that such goods, wares or merchandize shall be duly landed at the port for which they are reported for entry, or to be landed, subject to the payment of the duties leviable thereon at such last-mentioned port: Provided that no such goods, wares or merchandize shall be reported for entry at a port or place within this island and its dependencies not duly constituted a port of entry, with a resident officer of customs appointed to carry out the provisions of this chapter and of the other acts of the Legislature relating to the management and collection of the revenue; but the duties leviable on all goods, wares and merchandize reported or entered to be landed, or intended to be landed, at any port or place in this island or its dependencies, not being a duly constituted port of entry, shall be paid at the port at which the importing ship shall first arrive, and such goods, wares and merchandize shall be liable to the same duties, rules and regulations that the like articles are subject and liable to if entered for the due landing thereof at such first port of arrival.

16. The tide surveyor or other proper officer may board any such ship arriving at any port or place in this island or its dependencies, and freely stay on board until all the goods laden therein shall have been duly delivered from the same; and such officer shall have free access to every part of the ship, with power to fasten down hatchways, and mark any goods before landing, and to lock-up, seal, mark, or otherwise secure, any goods on board such ship; and if any place, or any box or chest, be locked, and the keys be withheld, such

officers, if they be of a degree superior to tidesmen or boatmen, may open any such place, box or chest in the best manner in their power, and any goods found concealed on board any such ship shall be forfeited; and if the proper officer shall place any lock, mark or seal upon any goods on board any such ship, and such lock, mark or seal be wilfully opened, altered or broken, before due delivery of such goods, or if any such goods be secretly conveyed away, or if the hatchways, after having been fastened down by such officer, be opened; the master of such ship shall forfeit a sum not exceeding four hundred dollars: Provided that tidewaiters on duty on board of any vessel shall be provided with suitable boarding and accommodation therein by the master or owner of such vessel; and if any master or owner shall refuse such boarding and accommodation to any tidewaiter, he shall forfeit the sum of twenty dollars.

17. No goods shall be unladen from on board any ship in any port or place in this island or its dependencies, nor within three miles of the coast thereof, until due entry shall have been made of such goods, and warrant granted for the unlading of the same; and no goods shall be so unladen except at some place at which an officer is appointed to attend to the unlading of the goods, or at some place for which a sufferance shall be granted by the Receiver General, assistant or sub-Collector, or other proper officer of the port or district, for the unlading of such goods; and no goods shall be so unladen except in the presence or with the permission in writing of the proper officer. And all goods unladen contrary to the regulations of this chapter or of any other law relating to the revenue, shall be forfeited, and the master of the ship from which the same shall be unladen shall forfeit the sum of four hundred dollars.

18. Any officer of revenue may go on board any vessel being within three miles of any of the coasts of this island or its dependencies, and stay on board while she remains in port or within such distance, and may examine on oath the master of such vessel touching his cargo and voyage; and if such master do not truly answer the questions put to him, he shall forfeit the sum of two hundred dollars.

19. The master of any such vessel shall, if required, produce his manifest to such revenue officer, and also deliver to him a copy thereof, and such officer shall note on the original manifest the date of production, and return the same to the master; and if any such master shall refuse to produce his manifest, or to deliver a copy thereof, as aforesaid, he shall forfeit the sum of two hundred dollars.

20. Whenever any goods are entered to pay duty according to the value thereof, such value shall be stated in the entry; and the importer or his known agent shall make a declaration, written upon the entry, setting forth that such value is the true value thereof; and if any person shall make such declaration, not being the importer or proprietor of such goods, nor his agent duly authorized by him, or if any person shall make an untrue declaration, such person shall forfeit the sum of four hundred dollars, and such affirmation shall be binding on the person by or on behalf of whom the same shall be made, and shall be in manner and form following, that is to say:

I, (A. B., the importer, or the known agent of the importer, as the case may be,) do declare that the articles mentioned in the entry above written, and contained in the packages therein specified, are of the value of dollars and cents; and that such is the true value thereof; and I do now tender the same for all duties.

Witness my hand this day of

Taken before me
this day of 18 A. B.
E. F., Receiver General, assistant or sub-Collector, (as the case may be.)

21. At the time of entering such goods, wares or merchandize, the importer thereof or his known agent shall, if required by the Receiver General, assistant or sub-Collector, or other proper officer, exhibit the original invoices of such goods, wares or merchandize, and shall, if required, certify on oath that they are the original invoices, and that they contain all the dutiable goods imported by, or belonging to, or consigned to him in the packages specified in the entry, to the best of his knowledge or belief; or if he have not, and cannot procure, the original invoices, he shall, if required, make oath thereof, and account for the want of the same; and shall also state on oath what he believes to be the true value of the goods at the place whence they were imported, as nearly as can be ascertained; all such oaths shall be signed by the party attesting, and taken before the Receiver General, assistant or sub-Collector, or other proper officer. Wrecked or derelict goods shall be charged for *ad valorem* duty on the gross proceeds or value thereof in this market, less one-fifth for duties, charges and expenses.

22. At any time after entry, or within five days after landing, the importer thereof or his known agent shall, if required by the Receiver General, assistant or sub-Collector, or other proper officer, produce the invoice of such goods, wares or merchandize, and shall answer on oath all such questions relating to the value thereof as shall be put to him

by such officer, who is hereby authorized to administer such oath; and in case of failure or refusal to produce such invoice (unless there be no invoice) or to answer such questions, or to answer them truly, or if other than the true and real invoice be produced, or if such true and real invoice be altered by such importer or his known agent, then and in every such case such importer shall forfeit the sum of four hundred dollars.

23. If upon examination it shall appear to the Receiver General, assistant or sub-Collector, or other proper officer, that such articles are not valued according to the true value thereof, such officer may detain and secure such articles, and within five days from the landing thereof take such articles for the use of the crown, and the said Receiver General, assistant or sub-Collector, or other proper officer, shall thereupon, in any such case, cause the amount of such valuation, with an addition of ten per centum thereon, and also the duties paid upon such entry, to be paid to the importer or proprietor of such articles in full satisfaction for the same, and shall dispose of such articles for the benefit of the crown; and if the produce of the sale shall exceed the sum so paid and all charges so incurred by the crown, one moiety of the overplus shall be given to the officer or officers who shall have detained or taken such articles, and the other moiety, detained for the benefit of the crown, shall be paid to the Receiver General of this island, to be applied to the public uses of the colony as the Legislature shall direct: Provided that should any articles whatsoever seized and detained under this chapter be of a perishable nature, and likely to deteriorate in value by being kept to abide the provisions hereof, the Receiver General, assistant or sub-Collector or other proper officer aforesaid, at the expiration of two days after such seizure and detention aforesaid, may cause any such articles aforesaid to be sold, and the proceeds thereof shall be subject to the same provisions and conditions as are contained in this chapter with respect to the articles themselves.

24. When the true weight shall not be given of articles subject and liable to duty according to weight, the Receiver General, assistant or sub-Collector, or other proper officer, may detain and secure so much of such articles as may be over the weight set forth in the entry, and within five days from the landing thereof take such articles for the use of the crown; and the said Receiver General, assistant or sub-Collector, or other proper officer, shall thereafter in any such case cause the valuation to be calculated on such articles so detained as aforesaid, at

the prices stated in the invoices, should the true invoices be produced by the importer to the satisfaction of the Receiver General, assistant or sub-Collector, or other proper officer, otherwise such articles to be appraised by two fit persons, to be chosen by the said officer ; and it shall be the duty of such appraisers to estimate such articles according to such value as they shall deem to be a fair first cost market price of such articles, free of charge, at the place from whence such goods may have been imported ; and the said officer shall cause the amount of either such valuations, together with an addition of ten per centum thereon, to be paid to the importers or proprietors of such articles in full satisfaction of the same ; and shall dispose of such articles for the benefit of the crown ; and the produce of such sale shall be appropriated in the manner provided by the foregoing section of this chapter, in respect of goods detained and sold as undervalued.

25. The person entering any goods shall deliver to the Receiver General, assistant or sub-Collector, or other proper officer, a bill of the entry thereof, fairly written in words at length, containing the name of the importer and of the ship and of the master, and of the place whence the goods were imported, and of the place within the port or district where the goods are to be unladen, and the particulars of the quality and quantity of the goods, and the packages containing the same, and the marks and numbers on the packages, and shall deliver at the same time one or more duplicates of such bill, in which all sums and numbers may be expressed in figures, and the particulars to be contained in such bill of entry shall be written and arranged in such manner and form, and the number of duplicates shall be such, as the Receiver General, assistant or sub-Collector, or other proper officer shall require ; and such person shall at the same time pay down or otherwise secure all duties payable upon the said goods ; and the said officer shall thereupon grant his warrant for the unlading of such goods.

26. No entry or warrant for the landing of any goods, or for the taking of any goods out of any warehouse, shall be valid unless the particulars of the goods and packages in such entry shall correspond with the particulars of the goods and packages purporting to be the same in the report and manifest of the ship, or in the certificate or other document, where any is required, by which the importation or entry of such goods is authorized, or unless the goods shall have been properly described in such entry by the denominations and with the character and circumstances according to which such goods are charged with duty or may be imported ; and any goods taken or delivered out

of any ship or out of any warehouse by virtue of any entry or warrant not corresponding or agreeing in all such respects, or not properly describing the same, shall be deemed to be goods landed or taken without due entry thereof, and shall be forfeited.

27. If the importer of any goods shall make and subscribe a declaration before the Receiver General, assistant or sub-Collector, or other proper officer, that he cannot for want of full information make perfect entry thereof, such officer may receive an entry by bill of sight for the packages or parcels of such goods, by the best description that can be given, and grant a warrant thereupon, in order that the same may be landed and secured to the satisfaction of the proper officer and at the expense of the importer, and may be seen and examined by such importer in the presence of the proper officer; and within five days after the goods shall have been so landed the importer shall make a perfect entry thereof, and pay or otherwise secure all duties payable thereon, and in default of such entry such goods shall be secured by the proper officer; and if the importer shall not within one month after such landing make perfect entry of such goods, and pay down or otherwise secure the duties payable thereupon, together with charges of removal and warehouse rent, such goods shall be sold for the payment thereof, and the overplus, if any, shall be paid to the proprietor of the goods.

28. The proper officers may take such samples of goods as shall be necessary for ascertaining the amount of any duties payable on the same, and all such samples shall be disposed of and accounted for in such manner as the Governor in Council shall direct.

29. In any case where the duty set forth in any entry shall not amount to two hundred dollars, the Receiver General, assistant or sub-Collector, or other proper officer, shall forthwith collect the same before granting his warrant for the removal of the articles imported; and in case such duties shall amount to two hundred dollars, then the Receiver General, assistant or sub-Collector, or other proper officer aforesaid may secure the said duties by taking bond in the form D, in the schedule hereunto annexed, from the importer, owner or consignee, to her Majesty, with two sureties for the payment thereof in four months from the date of such bond: Provided that no bond shall be taken for duties payable on wines, spirits, unrefined sugars or tobacco, imported, or on spirits distilled in this colony.

30. The Receiver General, assistant or sub-Collector, or other proper officer, may permit the master of any steamboat employed regularly in the conveyance of passengers, upon due report of such boat, to

deposit the cargo in a warehouse, to be provided by the owner or agent of the boat and approved of by the Receiver General, the owner or agent of the boat having first given general security by bond in the form E, in the schedule hereto annexed, with two sureties, for the payment of the full duties of importation on all such goods as shall be at any time so warehoused therein, or for the exportation thereof; and goods so deposited shall be deemed to be on board the importing steamboat, and shall be subject to the same regulations, penalties and forfeitures, as if they had not been taken thereout; and the master or owner of the steamboat shall have the same lien on the goods for freight or other charges as if the same had not been deposited in the warehouse, but shall not be entitled to any rent for the goods so deposited. The owner or consignee of the goods must make due entry thereof within six days from the time of their being so deposited in the warehouse.

31. The Receiver General, assistant or sub-Collector, or other proper officer, at the port where any vessel having on board any cattle may arrive, shall upon application of the importer thereof permit the immediate landing of the same: Provided that at the time of entry of such vessel due entry of and payment of the duties imposed by law on such cattle shall be paid.

32. No goods shall be imported into this island or its dependencies as being imported from places beyond the seas if any advantage attach to such distinction, unless such goods appear by the cocket, clearance or other proper document for the same, to have been duly shipped and cleared outwards for exportation.

33. The surplus stores remaining unconsumed on board of any ship arriving in this island or its dependencies from ports beyond the seas, shall be subject to the same duties, restrictions, and regulations, as the like sort of goods shall be subject to when imported by way of merchandize: Provided that if it shall appear to the Receiver General, assistant or sub-Collector, or other proper officer, in charge of the port or district where such vessel shall arrive, that the quantity or description of such stores is not excessive or unsuitable under all the circumstances of the voyage, such stores, if not landed, shall be duty free.

34. Every importer of any goods shall, within twenty days after the arrival of the importing ship, make due entry of such goods, and land the same; and in default of such entry and landing the proper officer may land and convey such goods to the Queen's warehouse; and if the duties payable upon such goods be not paid within three months

after such twenty days shall have expired, together with all charges of removal and warehouse rent, the same shall be sold and the produce thereof shall be applied, first to the payment of freights and charges, and next of the duties, and the overplus, if any, shall be paid to the proprietor of the goods or any other person authorized to receive the same: Provided that the officers of the customs may remove any goods to the warehouse before the expiration of the said twenty days, if the consignees thereof are unknown, and all other goods cleared from the ship.

35. If any goods, wares or merchandize which were rated to pay duty according to the tale, weight, gauge or measure thereof, shall have received damage during the voyage, abatement of such duties shall be allowed in proportion to the damage so received: Provided that proof be made to the satisfaction of the officer in charge of the port or district in which the vessel importing such goods, wares or merchandize shall have arrived, that such damage was received after such goods, wares and merchandize were shipped, and before they were landed in this island or its dependencies, and that such abatement be claimed at the time of first examination of such goods, wares or merchandize.

36. Upon such claims as aforesaid, the officers appointed to superintend the landing of such goods, wares or merchandize shall examine the same with reference to such damage, and shall thereupon state the amount of damage received, and make a proportionate abatement of duties accordingly: Provided that if such officers be incompetent to estimate such damage, or if the importer of such goods, wares or merchandize be not satisfied with the abatement made by them, the Receiver General, assistant or sub-Collector, or other proper officer in charge of the port or district, shall appoint two disinterested persons, experienced in the nature and value of such goods, wares or merchandize, to examine the same, and to report in writing the amount of damage so received as aforesaid, and an abatement of duties shall thereupon be made in proportion to the amount of damage thus ascertained.

WAREHOUSES.

37. The Governor in Council may constitute any port in this island or its dependencies a warehousing port for the purposes of this chapter; and the Receiver General, assistant or sub-Collector of any port so constituted, may, by notice in writing under his hand, appoint from time to time such warehouses at such ports as shall be approved of by him

for warehousing and securing of goods therein, and also in such notice declare what sort of goods may be so warehoused, and also by like notice revoke or alter any such appointment or declaration: Provided that every such notice shall be first transmitted to the Colonial Secretary, and be published in such manner as the Governor in Council shall direct.

38. The importer of any such goods into the said ports may warehouse the same in the warehouses so constituted or appointed, without payment of any duty on the first entry thereof, subject nevertheless to the rules, regulations, restrictions and conditions hereinafter contained.

39. All goods so warehoused shall be stowed in such parts or divisions of the warehouse, and in such manner, as the Receiver General, assistant or sub-Collector as aforesaid, shall direct; and the warehouse shall be locked and secured in such manner, and shall be opened and visited only at such times and in the presence of such officers and under such rules and regulations, as the Receiver General, assistant or sub-Collector shall direct; and all such goods shall, after being landed upon importation, be carried to the warehouse, or shall, after being taken out of the warehouse for exportation, be carried and shipped under such rules and regulations as the Receiver General, assistant or sub-Collector of the port shall direct.

40. Upon the entry of any goods to be warehoused, the importer of such goods, instead of paying or otherwise securing the duties payable thereon, shall give bond (as in form F in the schedule annexed) with two sureties, to be approved of by the Receiver General, assistant or sub-Collector of the port, in treble the duties payable on such goods, with condition for the safe depositing of such goods in the warehouse mentioned in such entry, and for the payment of all duties payable upon such goods or for the exportation thereof, according to the first account taken of such goods upon the landing of the same; and with further condition that no part thereof shall be taken out of such warehouse until cleared from thence upon due entry and payment of duty, or upon the entry for exportation; and with the further condition that the whole of such goods shall be so cleared from such warehouse, and the duties upon any deficiency of the quantity, according to the first account, shall be paid within two years from the date of the first entry thereof; and if after such bond shall have been given, the goods or any part thereof shall be sold or disposed of so that the original bonder shall be no longer interested in or have any control over the

same, the Receiver General, assistant or sub-Collector, shall direct fresh security to be given by bond (as in form G in the schedule annexed) with sureties, by the new proprietor or other person having control over such goods, and cancel the bond given by the original bonder of such goods, or exonerate him to the extent of the fresh security given.

41. If any goods which have been entered to be warehoused shall not be duly carried into and deposited in the warehouse, or shall afterwards be taken out of the warehouse without due entry and clearance, or having been entered and cleared for exportation from the warehouse shall not be duly carried and shipped, or shall afterwards be re-landed, except with the permission of the proper officer, the said goods shall be forfeited.

42. Upon the entry and landing of any goods to be warehoused, the proper officer shall take a particular account of the same, and shall mark the contents on each package, and shall enter the same in a book to be kept for that purpose; and no goods which have been so warehoused shall be taken or delivered from the warehouse except upon due entry, and under the care of the proper officer, for exportation, or upon due entry and payment of duty for home use; and whenever the whole of the goods warehoused under any entry shall be cleared from the warehouse, or whenever further time shall be granted for any such goods to remain warehoused, an account shall be made out of the quantity upon which the duties have been paid, and of the quantity exported, and of the quantity (to be then ascertained) of the goods still remaining in the warehouse, as the case may be, deducting from the whole the quantity contained in any original package, if any, which may have been abandoned for duties; and if upon such account there shall in either case appear to be any deficiency of the original quantity, the duty payable upon the amount of such deficiency shall then be paid.

43. The Receiver General, assistant or sub-Collector of the port may, under such regulations as he shall see fit, permit moderate samples to be taken, without entry of goods so warehoused and without payment of duty, except as the same shall eventually become payable as on a deficiency of the original quantity.

44. The unshipping, landing and carrying of all goods, wares and merchandize, and bringing them to the proper place for examination and weighing, putting them into scales, opening, unpacking, repacking, bulking, sorting, lotting, marking and numbering, where such

operations respectively are necessary or permitted, and removing to and placing them in a proper place of deposit until duly delivered, shall be performed by or at the expense of the importer.

45. If any goods, wares or merchandize shall be removed from any ship, wharf or other place previously to the examination thereof by the proper officer of customs, unless under the care or authority of such officer, or if any goods, wares or merchandize entered to be warehoused, or to be re-warehoused, shall be carried into the warehouse, unless with the authority or under the care of the proper officer, and in such manner and within such time and by such means of conveyance as such officer shall direct, such goods, wares and merchandize shall be forfeited.

46. No goods, wares or merchandize entered to be warehoused shall be unshipped from any ship, or be landed or put on shore, on Sundays or holidays without the special permission of the Receiver General, the assistant or sub-Collector; nor shall they be so unshipped, landed or put on shore on any other day except between the hours of eight in the morning and four in the afternoon, or during such other hours as may be appointed by the Receiver General; nor shall any such goods, wares or merchandize be unshipped or landed unless with the authority of the proper officer of customs, nor shall they be landed except at such wharf or place appointed for the landing of such goods, wares or merchandize; and if any such goods, wares and merchandize shall be unshipped, landed or removed contrary thereto, the same shall be forfeited.

47. If after any goods, wares or merchandize shall be duly entered and landed to be warehoused, though not actually deposited in the warehouse, the importer shall further duly enter the same or any part thereof for home use or for exportation, the same may be taken for home use or for exportation as the case may be: Provided that if any such goods, wares or merchandize shall be delivered, withheld or removed from the proper place of examination without such entry for home use or for exportation, such goods, wares or merchandize shall be forfeited.

48. The property of and in any one or more parcels of any goods, wares or merchandize warehoused, shall be transferable from party to party on a transfer note signed by the parties, or a written contract of sale made, executed and delivered by a broker or other person legally authorised for or on behalf of the parties respectively: Provided that a transfer of such goods, wares or merchandize, according to such sale,

shall have been entered in the warehouse register, or book kept for that purpose by the proper officer of customs, who is hereby required to enter such transfer, with the date thereof, upon the application of the owners of such goods, wares or merchandize. Such transfer or sale shall be of whole packages only ; and the party being the proprietor of such goods, wares or merchandize for the time being, shall be deemed to be the importer thereof for the purposes of this chapter, or any act of the Legislature relating to the management and collection of the duties of importation.

49. All warehoused goods, wares and merchandize shall be cleared either for home use or exportation at the expiration of two years from the day on which the same were so warehoused, or within such further period and in such cases as the Receiver General, assistant or sub-Collector shall direct, unless the proprietor of such goods, wares or merchandize shall be desirous of re-warehousing the same, in which case the same shall be examined by the proper officers, and the duties payable upon any deficiency or difference between the quantity ascertained on landing and the quantity found to exist on such examination, together with the necessary expense attendant thereon, shall be paid ; and the quantity so found shall be re-warehoused in the name of the then proprietor thereof, in the same manner as on the first importation.

50. If any warehoused goods, wares or merchandize shall not be duly cleared, exported or re-warehoused, and the duties ascertained to be payable on the deficiencies as aforesaid shall not be paid at the expiration of two years from the previous entry and warehousing thereof, or within such further period as shall be directed as aforesaid, the same, if worth the duty thereon, shall, after three months' notice to the proprietor, if known, with all convenient speed be sold either for home use or exportation with or without the consent of the owner or proprietor, and the proceeds thereof shall be applied to the payment of the duties, warehouse rent and charges, and the surplus, if any, shall be paid to the proprietor of such goods, wares, and merchandize, if known ; but if such proprietor cannot be found, such surplus shall be carried to the colony's account, to abide the claim of such proprietor on his appearing and making good his claim thereto ; and if such goods, wares, or merchandize, shall not be worth the duty, then the same, after such three months' notice aforesaid, may be exported or destroyed with or without the concurrence of the proprietor thereof, or of the proprietor of the warehouse in which the same were so ware-

housed, as the Receiver General, assistant or sub-Collector shall see fit; and the duties payable upon any deficiency thereof shall be forthwith paid by the proprietor of the goods.

51. With the sanction of the Receiver General, assistant or sub-Collector, and after such notice given by the respective importers or proprietors, and at such times and under such regulations and restrictions as any of the said respective officers shall from time to time require and direct, it shall be lawful, in the warehouse, to sort, separate, pack and re-pack any goods, wares or merchandize, and to make such alterations therein as may be necessary for the preservation, sale, shipment or disposal thereof: Provided that such goods, wares or merchandize be re-packed in the packages in which they were imported, or in such other packages as any of the said respective officers shall permit; and after such goods, wares or merchandize have been so separated and re-packed in proper or approved packages, any of the respective officers may, at the request of the importer or proprietor of such goods, wares or merchandize, cause or permit any refuse, damaged or surplus goods, wares or merchandize, occasioned by such separation or re-packing, which may not be worth the duty, to be destroyed, and may remit the duty payable thereon; and also permit any packages of sugar and molasses, or other goods, wares or merchandize in casks, to be taken out of the warehouse, without payment of duty, for the purpose of being repaired or trimmed, or such other purpose as to any such respective officers may appear expedient, and in such quantities and under such regulations and restrictions; and with such security by bond for the return thereof or the payment of the duties payable thereon, as any such officer may direct or require: Provided that the goods, wares or merchandize taken out of the warehouse for this purpose shall not be deemed goods, wares or merchandize duly cleared and delivered.

52. If the proprietor of any warehoused goods, or his agent, shall fraudulently conceal in, or remove from the warehouse, or abstract from any package, or transfer from one package to another or otherwise, for the purpose of illegal removal or concealment, any warehoused goods, such goods shall be forfeited.

53. No compensation shall be made by such officers to the importer, proprietor or consignee of any goods, wares or merchandize, by reason of any damage occasioned thereto in the warehouse, except by their wilful act or default.

54. Any goods, wares or merchandize warehoused at any port in this

island or its dependencies may be removed by sea or by inland carriage to any other port of entry therein, and be re-warehoused or entered for duty at such port, or, with the permission of the proper officers of customs, removed from any warehouse in any port to any other warehouse in the same port, under such regulations as may be directed by the Receiver General, and with security by bond (in the form marked H in the schedule of forms to this chapter) in treble the amount of the duties of importation, on the delivery to the proper officer by the person requiring such removal of an entry stating the particulars of the goods, wares and merchandize required to be removed, the name of the port, or of the warehouse if in the same port, to which the same are intended to be removed, and with such other information, and in such manner and form, as the Receiver General may direct or require.

55. On delivery of any goods, wares or merchandize for removal, an account containing the particulars thereof shall be transmitted by the proper officers of the port of removal to the proper officers of the port of destination, and the person requiring the removal shall enter into bond (in the form marked H in the schedule of forms to this chapter) with two sureties, in treble the amount of duties payable on such goods, wares or merchandize, for the due arrival and re-warehousing or entry for duty thereof at the port of destination within such time as the Receiver General, assistant or sub-Collector may direct; and such bond shall not be discharged unless such goods, wares or merchandize shall have been produced to the proper officer, and duly re-warehoused or entered for duty at the port of destination within the time allowed for such removal, nor until the full duties payable on any deficiency of such goods, wares or merchandize, not so accounted for, shall have been paid.

56. Upon the arrival of such goods, wares and merchandize at the port or place of destination, the same shall be entered for duty or warehoused in the same manner, and under and subject to the same laws, rules and regulations, as far as the same can be made applicable, as are required on the entry for duty or warehousing of goods, wares and merchandize on the first importation thereof.

57. Before any goods, wares or merchandize shall be entered outwards for exportation from the warehouse, the exporter or his agents shall give security by bond (in the form marked I in the schedule of forms to this chapter) in treble the duties of importation, with two sureties to be approved of by the Receiver General, assistant or sub-

Collector, that such goods, wares or merchandize shall be duly shipped and exported, and shall be landed at the place for which they are entered outwards, or otherwise accounted for to the satisfaction of any of the respective officers.

58. Goods warehoused shall be liable for freight as if on ship-board.

WINES FOR HER MAJESTY'S FORCES.

59. The Receiver General may, under such regulations as may be made by the Governor in Council, remit the duties on wines and spirits taken out of bond for the use of the officers of any of her Majesty's sea or land forces.

DRAWBACKS.

60. There shall be allowed upon the exportation from this island and its dependencies of any goods, wares or merchandize, the duties on which were chargeable and paid according to the tale, guage, weight or measure thereof, a drawback of the full duties which shall have been so paid as aforesaid: Provided that on every such exportation the exporter of such goods, wares or merchandize shall, before the same be laden on board of any ship or vessel, give notice in writing of such intended export, and shall deliver to the Receiver General, assistant or sub-Collector, or other principal officer in charge of the port or district, an account specifying the several articles intended to be exported, their nature, quality and quantity, and shall annex to the said account an affidavit, to be made before the Receiver General, assistant or sub-Collector, or other principal officer aforesaid, or any Justice for the district, that the full duties on such goods, wares or merchandize were paid at the time of the importation or entry thereof, and setting forth the date of such importation or entry, the name of the importing vessel, of the master thereof, and of the place whence such goods, wares and merchandize were imported, and of the establishment where such goods were manufactured, which account shall, on the clearance of such goods, wares and merchandize, be signed by the Receiver General, assistant or sub-Collector, or other principal officer aforesaid; and on the production of certificates under the hand of the Collector of her Majesty's Customs at the port of importation in the United Kingdom, or the Receiver General, or the Collector of duties in any British possession, or under the hand and seal of the British Consul or Vice-consul of any foreign port or place, or if there be no Consul or Vice-consul in such foreign port or place, then under the hands and seals of two well-known merchants, of the actual and due landing of the several articles

specified in such account as aforesaid at such port in the United Kingdom, or in such British possession, or in such foreign port, or place, such exporter shall be entitled to receive the drawback granted by law : Provided that no drawback shall be allowed on any goods, wares or merchandize unless the same shall be exported in boats or vessels exceeding in burthen forty tons of registered tonnage, and unless such drawback shall exceed the amount of twelve dollars on each article so exported, and be claimed within one year from the day of shipment aforesaid : Provided nevertheless that the Receiver General, assistant or sub-Collector, or other proper officer, may allow a further time for the production of such certificate, on reasonable cause shewn ; and that if it be proven to the satisfaction of the Receiver General, assistant or sub-Collector, or other proper officer, that the vessel in which such goods so exported has been lost at sea, or otherwise destroyed, and that such goods so exported are totally lost, the Receiver General, assistant or sub-Collector, or other proper officer, may return the duties paid on such goods, as if proof had been given of the actual and due landing of the same. No drawback shall be allowed where the duties have been only secured by bond and not actually paid.

IMPORTATION OF SPIRITS.

61. No spirits (except from Europe, the British West Indies, or the British possessions in North America) shall be imported into this island or its dependencies, or be carried coastwise from one port to any other thereof, in any cask or other vessel capable of containing liquors not being of the size or contents of thirty gallons at least, or be exposed for sale or be in the possession of any person unless the same shall have been transferred to such smaller cask or vessel after it shall have been brought into this island or its dependencies, of which the proof shall be upon the party in possession : Provided that nothing herein contained shall extend to any spirits imported in any ship in bottles as part of the cargo, nor to any spirits being really intended for the consumption of the seamen or passengers of such ship during her voyage, and not being more in quantity than is necessary for that purpose ; and if any spirits or other goods, wares or merchandize shall be imported or brought into this island or its dependencies contrary to the prohibitions or restrictions contained in this chapter in respect thereof, then, and in every such case, such spirits or other goods, wares or merchandize, together with the packages containing the same, shall be forfeited.

DISTILLERIES.¹

62. The owner or manager of every establishment in this colony where spirituous liquors are made, or his authorised agent, shall, on the first Monday in every month, render to the Receiver General, the assistant or sub-Collector of the colonial revenue, an account of the spirituous liquors made at the establishment since the last preceding account, and shall make and subscribe before the Receiver General, assistant or sub-Collector, the following oath :

I, A. B., do swear that the account which I have now rendered is a correct account of all spirituous liquors made at the establishment of _____ since the _____ day of _____ and that no spirituous liquors, to my belief, have been removed from the establishment without being guaged and the strength ascertained according to law, or without a permit from (the Receiver General or assistant or sub-Collector) of the colonial revenue for the district.

63. Entry shall at the same time be made of the liquors and duties thereon paid, or the liquors warehoused. If the duties be paid, the Receiver General, assistant or sub-Collector shall give a removal permit in the following form :

“Permit A. B. to receive from the stock of _____ the following liquors made by him, that is to say :

Given under my hand at _____ this
day of _____ 18,

Signed (as the case may be)

C. D., *Receiver General,*
Assistant or sub-Collector.

64. For investigating the correctness of the accounts, and ascertaining the true quantity of liquors made at any establishment, the revenue officers shall have the same power as by law conferred with respect to dutiable goods imported.

65. If any spirituous liquors shall be found in any establishment after the day on which the same ought to have been reported without having been reported and entered, the same shall be forfeited.

66. If the duty on entry for home use be not paid within twenty-four hours thereafter, the Receiver General, assistant or sub-Collector, or other proper officer, shall take the liquor into custody, and shall within fifteen days sell at public auction, giving ten days' public notice thereof, so much of the liquor as shall suffice to pay the duties on the whole, with the charges of storage and sale, and shall pay the surplus moneys and deliver the remaining liquors to the person entitled thereto.

67. If any spirituous liquors shall be found elsewhere than in the possession of the maker, without the duties thereon having been paid, or without the removal permit where required, such liquors shall be forfeited, and every person in possession thereof shall forfeit two hundred dollars. The duty shall be deemed unpaid until the contrary be shewn.

68. The Board of Revenue shall, if they see fit, employ officers for attending the manufactories or distilleries, so that one officer shall always be present at every manufactory or distillery while in operation; and the officers, under the direction of the Board, or of the Receiver General, assistant or sub-Collector, shall be employed alternately in superintending the progress of the manufacture or distillation, and shall report the same at least twice a week to the Receiver General, assistant or sub-Collector.

69. The officers shall be sworn by the Receiver General, assistant or sub-Collector, faithfully to attend the establishment to which they may be appointed, and to report to the Receiver General, assistant or sub-Collector, to the best of their belief, all quantities of spirituous liquors made thereat, and to use their utmost exertions for preventing evasion of the revenue laws.

70. The officers shall be entitled to receive from the Receiver General, on the certificate of the Board, one dollar each for every day on which they shall be actually employed.

71. If any officer shall absent himself from the establishment to which he may have been appointed while such establishment is at work, or shall in any way connive at an evasion of the revenue laws, he shall forthwith be dismissed from office, and shall forfeit two hundred dollars.

72. The Board may make regulations, as may be necessary, respecting the attendance of the officers, and the seasons of the year, and the hours at which distilleries and manufactories shall be allowed to work, and for checking frauds therein; for the supervision of the buildings in which the same are conducted, when not in operation as well as when at work; and for keeping closed such buildings when the manufactory or distillery may not be in operation; and for the expense incident thereto, and for searching for concealed pipes, and other secret means by which fraud may be perpetrated, and with that object for opening doors or windows or otherwise entering buildings, and taking down and removing partitions and other impediments to search, which it may be proper to take down or remove for that purpose, and also

for making the owners or occupiers of the buildings, when fraud shall be detected, liable for the expense incident thereto, and generally for ensuring a faithful account of the duties payable, and for carrying into effect the provisions of this chapter in relation to the manufacture and distillation of liquors; and may cause to be entered in a book, to be kept for that purpose by every distiller, the number of gallons of spirituous liquors distilled by him, and also the number of gallons sold or removed for consumption or sale, and the proof thereof; which book shall be always open in the day-time, Sundays excepted, for the inspection of any officer of customs, who may take any minutes, memoranda, or transcript thereof; and such distiller shall render a general account in writing, taken from his books, of the number of gallons of spirituous liquors distilled and sold or removed for consumption or sale, and the proof thereof, for the period of one month or fractional part of each month preceding as may be required; and shall also keep a book or books, in a form to be prescribed by the Board of Revenue, and to be open at all seasonable hours for inspection by any officer of customs, wherein shall be entered from day to day the quantities of grain or other vegetable productions or other substances put into the mash tub by him, his agent or superintendent, for the purpose of producing spirits, and shall verify or cause to be verified the said entries, reports, books and general accounts, by oath or affirmation, to be taken before the Receiver General or assistant or sub-Collector, which oath or affirmation shall be in substance as follows:

I do swear (or affirm) that the foregoing entries were made by me on the respective days specified, and that they state, according to the best of my knowledge and belief, the whole quantity of spirituous liquors distilled and sold, or removed for consumption or sale, at the distillery owned by _____ at _____ in the district of _____ amounting to _____ gallons, according to proof prescribed by the law of this colony.

And the owner, agent or superintendent of any distillery aforesaid shall, in case the original entries required to be made in his books shall not have been made by himself, subjoin to the oath or affirmation aforesaid the following oath or affirmation:

I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries are just and true, and that I have taken all the means in my power to make them so.

73. Manufacturers and distillers shall observe the regulations made under the preceding section, and give free access to the officers at all times, by day or night, when required; and any manufacturer or dis-

tiller who shall not obey such regulations, or shall impede the officer in the execution of his duty, shall, for every such offence, forfeit the sum of two hundred dollars.

PENALTIES AND FORFEITURES.

74. All vessels, boats, carriages and cattle, made use of in the removal of goods liable to forfeiture under this chapter, shall be forfeited; and every person who shall assist or be otherwise concerned in the importing, unshipping, landing or removal, or in harbouring of such goods, or into whose hands or possession the same shall knowingly come, shall forfeit treble the value thereof or the penalty of four hundred dollars, at the election of the officers appointed or to be appointed under this chapter; and the averment in any declaration, information or libel to be filed or exhibited for the recovery of such penalty, that the officer proceeding has elected to sue for the sum therein mentioned, shall be deemed sufficient proof of such election without any other or further evidence of such fact.

75. All goods, and all ships, vessels and boats, and all carriages and all cattle liable to forfeiture under this chapter, shall be and may be seized and secured by any officer appointed under this chapter, or other person duly employed for that purpose; and any person who shall in any way hinder, oppose, molest or obstruct any officer in the exercise of his office under this chapter, or any person duly employed thereunder in the exercise of such employment, or any person acting in aid or assistance of such officer or person so employed, shall, for every such offence, forfeit the sum of eight hundred dollars; and if any person shall, by force or violence, assault, resist, oppose, molest, hinder or obstruct any officer appointed under this chapter, or other person employed as aforesaid, in the exercise of his office or employment, or any person acting in aid or assistance as aforesaid, such person shall be deemed guilty of a misdemeanour, and on being convicted thereof, shall be punished in the discretion of the Court before whom such person shall be tried.

COLLUSIVE SEIZURES.

76. If any person appointed under this chapter, or any person duly employed for the prevention of smuggling, shall make any collusive seizure, or deliver up or make any agreement to deliver up or not to seize any vessel, boat, carriage, or any cattle or goods liable to forfeiture under this chapter, or shall take any bribe, gratuity, recompense or reward for the neglect or non-performance of his duty, every

such officer or other person shall forfeit for every such offence the sum of two thousand dollars; and every person who shall give, or offer or promise to give, or procure to be given, any bribe, recompense, gratuity or reward to, or shall make any collusive agreement with any such officer or person as aforesaid, to induce him in any way to neglect his duty, or to do, conceal or connive at anything whereby the provisions of this chapter may be evaded, shall forfeit the sum of eight hundred dollars.

UNCLAIMED GOODS, &C.

77. All vessels, boats, goods and other things which shall be seized as forfeited under this chapter shall be deemed and taken as condemned, and may be dealt with in the manner directed by law in respect to vessels, boats, goods or other things seized and duly condemned for breach of the provisions of this chapter, unless the person from whom such vessels, boats, goods and other things shall have been seized, or the owner of them, or some person authorized by him, shall, within one month from the day of the seizing the same give notice in writing to the person or persons seizing the same, or to the officer in charge of the nearest port or district, that he claims the said vessel, boat, or goods, or other things, or intends to claim them.

WRIT OF ASSISTANCE.

78. Under the authority of a writ of assistance granted by a Judge of the Supreme Court, (who is hereby authorized and required to grant such writ of assistance upon application made to him for that purpose by the principal officer appointed under this chapter,) any officer appointed under this chapter, taking with him a peace officer, may enter any building or other place in the day-time, and search for and seize and secure any goods liable to forfeiture, and in case of necessity break open any doors and any chests or other packages for that purpose; and any person in whose custody or possession any such goods may be found shall, unless he account satisfactorily for the same, be liable to a penalty of four hundred dollars; and such writ of assistance, when issued, shall be in force during the whole of the reign in which the same shall have been granted, and for twelve months from the conclusion of such reign.

DISPOSAL OF GOODS SEIZED.

79. All vessels, boats, goods and other things seized as liable to forfeiture under this chapter, shall be forthwith delivered into the custody of the officer of the port where the same shall have been seized, or of

such other port as the Receiver General or assistant Collector may direct; and such officer, after condemnation of such vessels, boats and other things, shall cause them to be sold by public auction to the highest bidder: Provided that the Board of Revenue may order such vessels, boats, goods, and other things, or the proceeds of such sale, to be restored in such manner and upon such conditions as they shall think fit.

PROCEEDINGS FOR PENALTIES, &c.

80. All penalties and forfeitures incurred under this chapter shall be prosecuted, sued for and recovered in the Supreme Court or Court of Vice-Admiralty of this island.

81. No suit shall be commenced for the recovery of any penalty or forfeiture under this chapter, except in the name of the principal officer appointed under this chapter, or in the name of her Majesty's Attorney or Solicitor General for this island and its dependencies.

82. If any goods shall be seized or detained for the non-payment of the duties payable thereon, or any other cause of forfeiture, and any dispute shall arise whether the duties have been paid on the same, or whether the same have been lawfully imported, the proof thereof shall lie on the owner or claimant of such goods, and not on the officer by whom the same shall have been seized or detained.

83. No claim to anything seized under this chapter, and returned into her Majesty's Courts for adjudication, shall be admitted unless such claim be entered in the name of the owner, with his residence and occupation, nor unless oath to the property in such thing be made by the owner or by his attorney or agent, by whom such claim shall be entered, to the best of his knowledge and belief; and any person making a false oath thereto shall be deemed guilty of a misdemeanor, and be liable to the pains and penalties to which persons guilty of a misdemeanor are ordinarily liable.

84. No person shall be permitted to enter a claim to anything seized in pursuance of this chapter until security shall be given in the Court where such seizure is prosecuted, in a penalty not exceeding two hundred and fifty dollars, to answer and pay the costs occasioned by such claim, and in default of giving such security such things shall be adjudged to be condemned and forfeited.

PROCEEDINGS AGAINST OFFICERS.

85. No writ shall be sued out against, nor a copy of any process served upon, any officer appointed under this chapter or other person

as aforesaid, for anything done in the exercise of his office or employment aforesaid, until one month after notice in writing shall have been delivered to him or left at his usual place of abode by the party or by the attorney or agent of the party who intends to sue out such writ or process, in which notice shall be clearly and explicitly contained the cause of action, the name and place of abode of the person who is to bring such action, and the name and place of abode of the attorney or agent; and no evidence of the cause of such action shall be produced, except of such as shall be contained in such notice, and no verdict shall be given for the plaintiff unless he shall prove on the trial that such notice was given; and in default of such proof the defendant shall receive in such action a verdict and costs.

86. Every such action shall be brought within three months after the cause thereof, and the defendant may plead the general issue and give the special matter in evidence; and if the plaintiff shall become nonsuited or shall discontinue the action, or if upon verdict or demurrer judgment shall be given against the plaintiff, the defendant shall receive treble costs, and have such remedy for the same as any defendant can have in other cases where costs are given by law.

87. In case any information or suit shall be brought to trial on account of any seizure made under this chapter, and a verdict shall be found for the claimant thereof, and the Judge or Court before whom the cause shall have been tried shall certify on the record that there was a probable cause of seizure, the claimant shall not be entitled to any costs of suit, nor shall the person who made such seizure be liable to any action, indictment or other suit or prosecution on account of such seizure; and if any action, indictment or other suit or prosecution shall be brought to trial against any person on account of such seizure, wherein a verdict shall be given against the defendant, the plaintiff, besides the things seized or the value thereof, shall not be entitled to more than five cents damages, nor to any costs of suit, nor shall the defendant in such prosecution be fined more than one dollar.

88. Such officer, within one month after such notice, may tender amends to the party complaining, or his agent, and plead such tender in bar to any action, together with other pleas; and if the jury shall find the amends sufficient, they shall give a verdict for the defendant; and in such case, or in case the plaintiff shall become non-suited, or shall discontinue his action, or judgment shall be given for the defendant upon demurrer, then such defendant shall be entitled to the like costs as he would have been entitled to in case he had pleaded the

general issue only : Provided that such defendant may by leave of the Court, at any time before issue joined, pay money into Court as in other actions.

89. In any such action, if the Judge or Court before whom such action shall be tried shall certify upon the record that the defendant or defendants in such action acted upon probable cause, then the plaintiff in such action shall not be entitled to more than five cents damages nor to any costs of suit.

90. All fines, forfeitures and penalties recovered under the provisions of this chapter shall be paid into the hands of the Receiver General, and shall be by him divided and paid as follows, that is to say : after deducting the charges of prosecution and sale, one-eighth part, in lieu of duty, to the colony ; three-eighths to the person who shall inform for the same ; three-eighths to the officer who shall seize and sue for the same ; and the remaining one-eighth to the Board of Revenue : Provided that the said Board of Revenue may distribute such remaining eighth part of such net produce among all or any of the seizing officers or other persons aiding or assisting them, or any of them, to effect the seizure, in such proportions as the said Board may deem reasonable ; and that when the officer who shall seize and sue for the same shall be the informer, he shall be entitled to receive six-eighths or three-fourths of the said full net proceeds.

91. In all cases in which no fine, penalty or forfeiture is imposed or provided for by this chapter, for a breach or violation of any of the provisions thereof, all persons offending against the same in any way shall forfeit and pay a sum not exceeding two hundred dollars, to be recovered and appropriated in like manner as other fines and penalties are under this chapter.

92. All actions or suits for the recovery of any of the penalties or forfeitures imposed by this chapter may be commenced or prosecuted at any time within three years after the committing of the offence by reason whereof such penalty or forfeiture shall be incurred, any law, usage or custom to the contrary thereof notwithstanding.

LABRADOR.

93. All goods landed at the Labrador shall be subject to the duties imposed upon the like goods imported into any part of this island or its dependencies, and to the same laws, rules and regulations as though they were on board the importing ship on arrival, before such landing ; and unless the owners or their agents shall duly account for all such goods to any officer of the revenue appointed to collect duties at the

Labrador, and to his satisfaction pass entries for the same, and pay the duties thereon, such goods shall be forfeited; and any such officer may at any time, between sunrise and sunset, enter into any building or place of any person dealing in or having in his possession dutiable goods, and take an account thereof; and if such owner or agent shall refuse to open the doors, or shall in anywise obstruct such officer, he shall forfeit the sum of four hundred dollars; and such officer may, if he think fit at any time so to do, take with him a writ of assistance, and proceed therewith in manner by law in that behalf directed in similar cases: Provided that nothing in this section shall exempt from duty, under other provisions of the law, goods imported at the Labrador but not landed.

94. Every importer of any goods at the Labrador shall, within two days after importation, make due entry of such goods, and pay the duties thereon, and, if required by the Collector or sub-Collector, land the said goods; and in default of such entry and payment of duties, the Collector or sub-Collector may seize and sell the said goods, or so much as may be necessary for the payment of all duties on such importation, paying over the surplus of the proceeds, after payment of such duties and expenses of seizure and sale, to the proprietor of such goods or to any person authorised to receive the same.

95. For the purpose of the collection of the revenue at the Labrador, the office of Collector or sub-Collector, where there is no office on shore, shall be held to be in the ship or vessel in which such Collector or sub-Collector shall be conveyed.

96. Goods seized as forfeited at the Labrador may be sold by the Collector or sub-Collector, under the provisions of the laws relating to the revenue, at any port or place such sub-Collector may deem expedient.

97. The Governor in Council may, by instructions to be given to the Collector or sub-Collector in that behalf, authorise the importation and entry of, and payment of duties upon, spirits imported into the Labrador in casks containing less than thirty gallons.

98. Every person who shall be concerned in landing or unshipping at the Labrador any goods, wares or merchandize liable to duty, the duties on which have not been paid or secured, shall forfeit and pay a penalty of four hundred dollars, to be recovered in a summary manner under the provisions of this chapter.

99. All pecuniary penalties and forfeitures incurred by a breach of any law relating to the revenue committed at the Labrador, may be

sued for and recovered in any Court of Record in a summary manner; and in default of payment thereof, upon conviction, the Court may imprison the offender for any period not exceeding two months.

100. In order to the trial of any party charged as being liable to any such penalty or forfeiture, the Court or a Judge thereof may, upon information upon oath being laid before him against such party, issue a warrant for his apprehension; and any party arrested under such warrant shall not be discharged from arrest until he shall have been acquitted of the charge, or suffered the punishment or paid the fine upon conviction therefor, unless he shall give sufficient security, to the satisfaction of the said Court or Judge, for his appearance to answer such charge and to abide the judgment of the Court in that behalf.

101. In any proceeding for any such penalty or forfeiture, the Court or Judge may compel the appearance of any witness by warrant, either in the first instance, or upon a summons to such witness being disobeyed.

BONDS TO BE A PRIOR CHARGE.

102. All bonds hereafter taken for the payment of duties under this chapter or any act of the Legislature for the payment, regulation, or collection of any duties levied in this island and its dependencies, shall constitute and be a prior claim upon the estate, lands, goods, chattels, credits and effects of the importer, consignee or other person executing such bond, from the time the person executing such bond shall be actually insolvent until the amount thereby secured shall be paid.

VESSEL TO INCLUDE TACKLE, &c.

103. The forfeiture of a vessel shall include all her tackle, apparel, and furniture whatsoever; and forfeiture of goods shall include the packages containing them.

SCHEDULE.

A.

BOND GIVEN FOR THE REMOVAL OF GOODS REPORTED FOR
IMPORTATION AT ANOTHER PORT IN THE COLONY.

Know all men by these presents, that we (1)

(1) Importer
and two sure-
ties.

Newfoundland, are held and firmly bound unto our Sovereign Lady Victoria, by the Grace of GOD, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, in the sum of (2)

(2) Treble the

amount of du-
ties, to be set
down in words
and not in
figures.

to be paid to our said Lady the Queen, her heirs and suc-
cessors : For which payment, well and truly to be made,
we bind ourselves and every of us, jointly and severally, our
heirs, executors and administrators, and every of them, firm-
ly by these presents. Sealed with our seals. Dated this
day of in the year of the reign
of her said Majesty, and in the year of Our LORD one thou-
sand eight hundred and

Whereas, the above bounden has
given notice of his intention to convey or remove to
in the ship or vessel

the following goods, that is to say :

which said goods were on the day of
in the year one thousand eight hundred and
reported inwards, at this port of by the said ship
or vessel from for importation at
aforesaid :

Now the condition of this obligation is such, that if the
said goods, and every part thereof, shall be duly cleared out-
wards and landed at aforesaid ;
and if within the space of days,
from the date hereof, the above bounden
shall produce to the Receiver General, or other proper offi-
cer, at aforesaid, a certificate under the hand
of the sub-Collector, or other proper officer of the customs,
at aforesaid, stating that the whole and
every portion of the said goods have been landed at
aforesaid, then this obligation to be void,
otherwise to be and remain in full force and virtue.

Signed, sealed, and delivered, } (L. S.)
in presence of } (L. S.)
(L. S.)

B.

BOND GIVEN FOR THE CLEARANCE OF GOODS REPORTED FOR
EXPORTATION.

Know all men, &c.

Whereas the above bounden has given
notice of his intention to export to in the
ship or vessel the following goods,
that is to say :

which said goods were on the day of in the

D.

BOND TO BE GIVEN FOR THE IMPORTER FOR DUTIES ON GOODS
IMPORTED.

Know all men, &c.

(1) Importer. Whereas, the above bounden (1)

has lately imported into the port of _____ in a
 ship or vessel called the _____ whereof _____ is
 master, from _____ the undermentioned goods,
 namely:

the duties in respect whereof, amounting to _____
 have not been paid, and the payment of which
 duties he is desirous of securing, pursuant to law.

Now the condition of this obligation is such, that if the full
 duties as aforesaid due and payable on the importation of
 such goods, be paid to the Receiver General or other proper
 officer at the said port of _____ within four

(2) Number of
 days as per cur-
 rent month.

months (2) from the date of the first entry thereof, then this
 obligation to be void, otherwise to be and remain in full
 force and virtue.

Signed, sealed, and delivered }	(L. S.)
in presence of }	(L. S.)
	(L. S.)

E.

BOND TO BE GIVEN FOR GOODS LANDED AND WAREHOUSED
FROM STEAMERS.

Know all men, &c.

Whereas the above bounden _____
 expects to arrive at the port of St. John's, within the space
 of one year from the date hereof, certain steamships belong-
 ing to _____ Company, each having on board certain
 goods, such as may be reported at the Custom House by the
 masters of the respective ships on the arrival of each ship
 respectively, the duties in respect whereof have not been
 paid, and which goods he is desirous of depositing in a ware-
 house on arrival at _____ pursuant
 to law.

Now the condition of this obligation is such that if all
 the goods so imported shall be safely deposited in such
 warehouse situate as aforesaid, and shall be either duly ex-

ported or the full duties due and payable on the importation of such goods or on such part thereof as shall not have been exported as aforesaid, be paid to the Receiver General or other proper officer at the said port of according to the first account taken of such goods upon the landing of the same; and if no part thereof shall be taken out of such warehouse until cleared from thence upon due entry and payment of duty (if intended for home consumption), or upon due entry if intended for exportation, and if the whole of the said goods shall be so cleared from such warehouse, and the duties upon any deficiency of quantity according to such first account shall be paid within two years from the date of the first entry thereof, then this obligation to be void, otherwise to be and remain in full force and effect.

Signed, sealed and delivered }	(L. S.)
in presence of }	(L. S.)
	(L. S.)

F.

BOND TO BE GIVEN FOR GOODS FOR WAREHOUSE.

Know all men, &c.

Whereas the above bounden (1)	(1) Importer.
has lately imported into the port of	in a
ship or vessel called the	master, from
the undermentioned goods, namely:	

the duties in respect whereof have not been paid, and which goods he is desirous of depositing in a warehouse situate at pursuant to law.

Now the condition of this obligation is such that if all the goods so imported shall be safely deposited in such warehouse situate as aforesaid, and shall be either duly exported or the full duties due and payable on the importation of such goods, or on such part thereof as shall not have been exported as aforesaid, be paid to the Receiver General or other proper officer at the said port of according to the first account taken of such goods upon the landing of the same, and if no part thereof shall be taken out of such warehouse until cleared from thence, upon due entry and payment of duty, if intended for home consumption, or upon due entry if intended for exportation; and if the whole of such goods shall be so cleared from such warehouse, and the duties upon any deficiency of quantity, according to such first account, shall be paid within two years from the date of the first entry thereof, then this ob-

ligation to be void, otherwise to be and remain in full force and virtue.

Signed, sealed and delivered }	(L. S.)
in presence of }	(L. S.)
	(L. S.)

G.

BOND TO BE GIVEN BY THE PURCHASER OF GOODS IMPORT-
ED AND WAREHOUSED.

Know all men, &c.,

Date of impor- Whereas on or about the day of
tation. in the year of our Lord one thousand eight hundred and
(1) Importer's (1)
name and resi- imported into the port of
dence. the undermentioned goods, namely :

(2) One, two which are now deposited in (2) warehouse,
or more, as the situate at in the said port of
case may be.

pursuant to law.

(3) Importer. And whereas the said (3)
(4) The de- has lately sold and disposed of (4)
scription and a part of the goods so imported by the said
quantity of goods sold. If as aforesaid unto the above
the whole, the bounden (5)
words "the
said goods"

must be insert- Now the condition of this obligation is such, that if all
ed, "a part of the goods so the goods so imported shall be either duly exported, or the
the goods so full duties due and payable on the importation of such
imported by the said as goods or on such part thereof as shall not have been expor-
the said as ted as aforesaid, be paid to the Receiver General or other
aforesaid" must be struck
through.

(5) The pur- according to the first account taken of such goods upon the
chaser. landing of the same, and if no part thereof shall be taken
out of such warehouse until cleared from thence, upon due
entry and payment of duties (if intended for home con-
sumption) ; and if the whole of such goods shall be so cleared
from such warehouse, and the duties upon any deficiency
of quantity, according to such first account, shall be paid
within two years from the date of the first entry thereof,
then this obligation to be void, otherwise to be and remain
in full force and virtue.

Signed, sealed and delivered }	(L. S.)
in presence of }	(L. S.)
	(L. S.)

H.

BOND TO BE GIVEN UPON REMOVAL OF WAREHOUSED GOODS FROM A
WAREHOUSING PORT TO ANY PORT OF ENTRY WITHIN THIS COLONY.

Know all men, &c.

Whereas the above bounden _____ has given
notice of his intention to remove to the port of _____ the
following goods, that is to say :

which said goods are now lodged and deposited in a warehouse situate
at _____

Now the condition of this obligation is such that if the said goods and
every part thereof shall be duly delivered without alteration or dimi-
nution into the custody and possession of the sub-Collector or other
proper officer at _____ aforesaid ; and if the same goods
and every part thereof shall be duly re-warehoused or entered for duty
at the said port of _____ within the space of _____ days next
following the date hereof ; and within the space of _____ days from
the date hereof the above bounden _____ shall produce
to the _____ or other proper officer at _____ aforesaid,
a certificate under the hand of the _____ at _____ aforesaid
stating that the whole and every portion of the said goods have been
there landed and re-warehoused or entered for duty, then this obliga-
tion to be void, otherwise to be and remain in full force and virtue.

Signed, sealed and delivered } _____ (L. S.)
in presence of } _____ (L. S.)
_____ (L. S.)

I.

BOND TO BE GIVEN UPON ENTRY OF GOODS TO BE EXPORTED FROM
THE WAREHOUSE.

Know all men, &c.

Whereas the above bounden _____
has given notice of his intention to export to _____
in the ship or vessel _____ the following goods,
that is to say :

which said goods are now deposited in _____
warehouse, situate at _____ in the port of _____

Now the condition of this obligation is such that if the said goods
and every part thereof shall be duly shipped on board the said ship or
vessel, and within the space of _____ next following the date
hereof shall be duly landed at _____ aforesaid
and if within the space of _____ from

the date hereof the above bounden shall
 produce to the or other proper officer
 at a certificate under the hand
 of the stating that the whole and every
 portion of the said goods have been landed at
 aforesaid, then this obligation to be void,
 otherwise to be and remain in full force and virtue.

Signed, sealed and delivered } (L. S.)
 in presence of } (L. S.)
 (L. S.)

CHAPTER 50.

OF LICENSES FOR THE SALE OF INTOXICATING LIQUORS.

SECTION

- 1—Penalty for sale without license.
- 2—Licenses, how obtained.
- 3—Licenses, two kinds.
- 4—Form of licenses.
- 5—Charge for license.
- 6—License, when paid—bonds required.
- 7—No license except to occupier of house.
- 8—Returns to be rendered.
- 9—Duties of persons holding wholesale license.
- 10—Signs to be erected.
- 11—Penalty for breach of conditions of retail licenses.

SECTION

- 12—Penalty for erecting signs illegally.
- 13—Penalty for adulterating.
- 14—Constables may visit unlicensed houses.
- 15—Penalty for harboring policemen.
- 16—Limitation of prosecutions. Recovery of penalties. Summary proceedings. Default. Distress. Imprisonment.
- 17—Appeals.
- 18—No conviction quashed for want of form.
- 19—Married women and servants liable in certain cases.
- 20—Fines and penalties, how appropriated.

1. No intoxicating liquors shall be sold, unless in the original packages in which the same are imported, or by license, under a penalty of not less than ten dollars, nor more than fifty dollars for every offence.

2. Licenses may be granted by the Justices at the general quarter sessions of the peace, to be holden in each district, town or place in this island, or by the stipendiary Magistrate where there shall be no quarter sessions, to such person as shall be approved of by him or them: Provided, that where the license is refused, the applicant may appeal to the Governor in Council, who, if he shall see fit, may order the said license to be granted. The said Justices or Magistrates may make rules respecting the granting of licenses, in accordance with the provisions of this chapter, subject to the approval of the Governor in Council.

3. Licenses shall be of two kinds, wholesale and retail.

4. All licenses shall be in the forms in schedule A, to this chapter annexed, and shall be held on the terms and conditions in such forms mentioned, and shall continue for one year from the date thereof.

5. The charge for such licenses shall be as follows :—For the wholesale license forty dollars ; retail licenses not more than thirty-five dollars nor less than eight dollars, in the discretion of the Justices granting such licenses.

6. Every person to whom a retail license shall be granted shall, before receiving the same, pay the license money for one year ; and all persons applying for retail licenses shall, before obtaining such licenses, also enter into a bond, with two approved sureties, in the form in schedule B, to this chapter annexed, which bond shall be prepared by the Clerk of the Peace, or the Magistrate where there shall be no Clerk of the Peace ; and when executed, shall be filed by the said Clerk of the Peace or Magistrate.

7. No license shall be granted to any one but the occupier of the premises on which the said wines, spirituous or malt liquors, shall be sold, exposed, or offered for sale ; but in case of the death or insolvency of the person licensed, the Justice or Justices granting such license may make such order thereon as shall suit the circumstances of the case.

8. The Clerk of the Peace in every district, and, where there is no Clerk of the Peace, the Magistrate shall register in a book a list of licenses, with the dates thereof, the names, additions and residences of the parties licensed, and a memorandum of the houses or shops for which such licenses are granted, and of the bonds taken, and the license money and fines and penalties paid ; and returns embracing the foregoing particulars shall be furnished at the end of each quarter to the Receiver General, together with the amounts collected, less the commission to be allowed on the license money, under a penalty of two hundred dollars ; and the list of persons so licensed, with their places of residence, shall be published annually in the *Royal Gazette*.

9. No person holding a wholesale license shall sell, barter or exchange less than one gallon of wine, spirituous or malt liquors, at any one time, nor shall he suffer any wines, spirituous or malt liquors to be drank on the premises where the same shall be sold ; and any person who shall violate the conditions of the said wholesale license, or the provisions of this chapter in respect of such wholesale license, shall forfeit and pay a sum not exceeding eighty dollars, with the costs, to be recovered and appropriated as hereinafter mentioned.

10. Every person holding a retail license shall, within ten days after obtaining the same, cause to be painted in letters publicly visible and legible upon a board to be placed over the door of the house or premises in which the said wines, spirituous or malt liquors are sold by retail, the christian and surname of the person mentioned in such license, at full length, together with the words "Licensed to sell ale, wines, and spirituous liquors;" and such person shall preserve and keep such name and words so placed and painted during all the time that such person shall continue so licensed; and every person in any respect making default herein shall forfeit and pay, for every such offence, a sum not exceeding twenty-five dollars; and the neglect to do so for every ten days after every conviction shall be a fresh offence.

11. If any person holding a retail license shall not otherwise comply with the terms and conditions contained in such license, he shall pay a penalty, for every offence, not exceeding twenty-five dollars, with the expenses of conviction; and in all cases the Justice before whom such conviction is had may, in addition to such penalty, declare the license of every such person so convicted to be forfeited.

12. If any person without a retail license shall keep up or exhibit in or about any house or out-house or building, any sign-board or sign containing any words, or shall show any emblem or sign commonly used or intended or calculated to intimate that ale, wines or spirituous liquors are for sale, barter or traffic therein, or on the premises, the owner or occupier thereof, knowingly or wilfully offending herein, shall respectively forfeit and pay for every such offence a sum not exceeding fifty dollars.

13. Any person who shall, for the purposes of sale, use, mix or infuse any noxious or pernicious ingredient with any wine, spirituous or malt liquors, or who shall fraudulently deteriorate or adulterate, or permit the deterioration or adulteration of such wines, spirituous or malt liquors, shall forfeit and pay a sum not exceeding forty dollars.

14. All constables or policemen, within their respective districts, may, at such times as they may think fit, visit all unlicensed houses where there shall be reasonable grounds to suspect intoxicating liquors are sold, also the shops and public rooms of persons holding licenses, to see that the several provisions of this chapter are complied with; and they are hereby required and commanded to prosecute all offenders under this chapter, under pain of being dismissed from their respective offices, or of being fined a sum not exceeding fifty dollars; and in case any person keeping licensed or unlicensed public houses or

shops, or public rooms, or any persons being in or about such shops, rooms, licensed or unlicensed public houses, at the time any constable or policeman may be visiting the same, shall interrupt or assault such constable while in the execution of the provisions of this chapter, such persons shall respectively be subject to a penalty not exceeding fifty dollars.

15. If any keeper of any house, shop, room, or other place for the sale of spirituous or malt liquors, knowingly harbors or entertains any constable or policeman, or permits such constable or policeman to remain in his house, shop, room or other place, during any part of the time appointed for his being on duty, such keeper, being convicted thereof before any Justice shall, for every such offence, pay a fine not exceeding twenty-five dollars.

16. All prosecutions under this chapter for penalties, fines or forfeitures, shall be commenced within three months after the same shall have been incurred, and shall be recovered upon view by a Justice, or upon the complaint in writing of any person who may inform and sue for the same ; and all such cases shall be tried according to the usual practice of Justices in summary cases, with the same powers of adjudicating in cases of default, and of compelling the attendance of witnesses, and also a power of distress against the goods and chattels of all persons convicted under this chapter ; and when no sufficient distress may be found, such persons so convicted may be committed by the Justice to the nearest gaol, for a period not exceeding thirty days.

17. All persons convicted under this chapter who shall think themselves aggrieved by such conviction may appeal against the same to the next Quarter Sessions of the Peace holden in or nearest to the place where such conviction shall have been made : Provided that such person shall give to such convicting Justice notice in writing of his intention so to appeal, and of the cause and matter thereof, within five days next after such conviction ; and shall also, within such five days, enter into a recognizance, with two approved sureties, before the Justice so convicting, conditioned to appear at such session and try such appeal, and to abide the judgment of the Court thereon, and to pay such costs as by the Court shall be awarded ; and the judgment of the said Court shall be final and binding to all intents and purposes.

18. No conviction under this chapter shall be quashed for want of form, upon any writ of *certiorari* or otherwise.

19. Married women and servants concerned in any breach of the provisions of this chapter, shall be liable for the penalty thereto attach-

ing, as if they were unmarried women or principals ; but the husband or master of the person so offending shall not be liable to be also sued for the same offence ; but in the case of married women, distress may issue against the property of the husband.

20. Every fine and penalty recovered under this chapter shall be appropriated in the following manner : one half to the informer, and the other half to the Receiver General for the use of the colony.

SCHEDULE A.

FORM OF WHOLESALE LICENSE.

NEWFOUNDLAND, }
District, s.s. }

License is hereby granted to _____ of _____
in the district of _____
to sell, in a shop or warehouse to be kept in the building occupied by him, situate (here describe particularly the situation of the premises) intoxicating liquors in quantities not less than one gallon ; but no part whereof shall be consumed on the premises.

This license to remain in force until the _____ day of _____ A. D., 18 _____, and to be held on the terms and conditions contained in the law now in force, or which shall be in force during the continuance of this license, respecting such wholesale licenses for the sale of ale, wines and spirituous or malt liquors.

Given under (our hands or my hand)
this _____ day of _____ A. D., 18 _____

A. B., J. P.
C. D., J. P.

Received from the said _____
the sum of forty dollars, being the amount due for such wholesale license for one year, from the _____ day of _____
A. D., 18 _____, to the _____ day of _____ A. D., 18 _____
St. John's, _____ day of _____ A. D., 18 _____
E. F. (*Clerk of the Peace, or J. P.*)

FORM OF RETAIL LICENSE.

NEWFOUNDLAND, }
District. }

By virtue of the power vested in us (or me) under chapter fifty of the consolidated statutes of this colony, entitled "Of licenses for the sale of intoxicating liquors," we, two (or I, one) of her Majesty's Justices of the Peace for the said district, do hereby license and authorise _____ of _____

within the said district, to sell by retail, in the house in which the said
 now dwelleth, and in the premises
 thereunto belonging, situate at (here describe particularly the situa-
 tion of the premises,) and not elsewhere, ale, wines and spirituous
 liquors, for the period of one year from the date hereof: Provided that
 the said do not fraudulently adulterate
 any intoxicating liquors, or sell, or permit the sale of any of the same,
 knowing them to have been fraudulently diluted or adulterated, and
 do not use in the selling thereof any weights or measures that are not
 of the legal standard, and do not wilfully or knowingly permit drunk-
 enness or any other disorderly conduct whatsoever therein, and do not
 knowingly suffer or permit any persons of notoriously bad character
 to assemble together or meet therein, and do not suffer any intoxica-
 ting liquors to be delivered or sold in, from or out of any part of the
 said premises on Sunday, nor during the
 usual hours of the morning and afternoon divine service on Christmas
 day or Good Friday; and do not sell any intoxicating liquors to per-
 sons in a state of intoxication, nor to children under fourteen years
 of age; and provided that good order and rule be at all times main-
 tained and kept in the said house or premises, and that the provisions
 contained in the said chapter or in any act to be passed by the Legis-
 lature during the continuance of this certificate, and all rules and re-
 gulations made, or to be made, by the Justice or Justices in pursuance
 of such chapter or acts be at all times observed and obeyed by the said
 The house to be closed and no liquor
 sold after the hour of eleven o'clock at night.

Given under our hands (or my hand) at this
 day of anno Domini, 18

A. B., J. P.
 C. D., J. P.

Received from the said	the sum of
dollars, being the license money for the above	
retail license for one year, from the	day of 18
to the	day of 18

E. F., (*Clerk of the Peace or J. P.*)

SCHEDULE B.

FORM OF BOND.

Know all men by these presents that we
 are held and firmly bound unto our Sovereign Lady
 Queen Victoria, her heirs and successors, in the sum of two
 hundred dollars, for which payment we jointly and severally
 bind ourselves, our executors and administrators firmly by
 these presents. In witness whereof we have hereunto set our

hands and seals the day of anno Domini,
 eighteen hundred and

Whereas, the above bounden

hath applied for and obtained a license for the sale by retail of ale, wines and spirituous liquors in the house kept by him situate (describe particularly the situation of the premises).

Now the condition of this obligation is such that if the said

shall, during all the time that he may hold any retail license to be granted to him, pay all fines and all penalties which he may be condemned to pay for any offence against the law relative to the granting of licenses for the sale of wines, spirituous or malt liquors, and also shall at all times well and truly observe and comply with all and singular the provisions of any act or acts of the Legislature which are now or may hereafter be passed during the continuance of the license so as aforesaid granted to the said

for regulating the sale by retail of ale, wines and spirituous liquors aforesaid, and shall also well and truly observe all rules and regulations made or to be made by the Justice or Justices under the provisions of the said act or acts, and shall further comply with the several conditions contained in the certificate of license granted to the said

then and in such case the foregoing obligation shall be void, otherwise to remain in full force and effect.

Signed, sealed and delivered }
 in presence of }

CHAPTER 51.

OF PREVENTING THE SALE OF INTOXICATING LIQUORS.

SECTION

- 1—If two-thirds of qualified electors of any electoral district who shall vote at a poll declare themselves in favour of a prohibition of the sale of intoxicating liquors, the Governor can, by proclamation, prevent the sale of such, and put in force this chapter.
- 2—When a requisition is presented to a Magistrate from one-fifth of the electors of any electoral district, as in form in schedule A, he shall transmit same to the Governor in Council; how notice given to carry out this chapter; provisions made in case of riot.
- 3—No new licenses shall be granted, nor existing licenses renewed, during period intervening between poll and issue of proclamation.
- 4—How Returning officer appointed; his powers, &c.
- 5—Duties of Returning officers and poll clerks.
- 6—Returning officer to be furnished with a correct list of qualified electors within electoral districts; powers of Returning officers.
- 7—Mode of voting; votes how regulated.
- 8—Duties of Returning officer at close of the poll.
- 9—Duties of stipendiary Magistrate, &c.,

SECTION

- if two-thirds of the voters polled should be in favor of prohibition.
- 10—When a poll has been taken in any electoral district, no new poll shall be had until three years after; mode of proceeding when result has been in favor of prohibition; period three years.
- 11—After proclamation shall be issued within any electoral district, no one shall sell spirituous or intoxicating liquors for three years, or no new licenses shall be granted.
- 12—Party employed equally guilty with principal.
- 13—Any party violating 11th section, similarly liable to parties selling without a license; how penalties are recovered and appropriated, &c.
- 14—While proclamation continues, licenses to sell in any locality beyond the limits of the electoral district mentioned therein are of no avail within said limits: Penalty of selling within limits of electoral district under assumed authority of license.
- 15—After proclamation issued, no one can sell, &c., any intoxicating liquors for three years. Penalty for offending.
- 16—Fees payable under this chapter, and how provided for.
Schedule.

1. When it shall have been made to appear to his Excellency the Governor in Council, in manner hereinafter provided, that two-thirds of the duly qualified electors of any electoral district in this island, who shall vote at a poll to be taken, as hereinafter specified, have declared themselves to be in favor of a prohibition of the sale of intoxicating liquors in their locality, and against the issue of licenses therefor, his Excellency the Governor may issue a proclamation in the ordinary form, having embodied therein the simple declaration that such sale of intoxicating liquors, and such issue of licenses therefor, are by such proclamation prohibited within such electoral district under the authority

and for the enforcement of this chapter and, subject to the provisions and limitations hereby enacted.

2. When a requisition shall be presented to the nearest resident stipendiary Magistrate or Justice from one-fifth of the electors of any electoral district in this island, as in the form in schedule A to this chapter, or to the like effect, requiring a vote to be taken as to whether or not such proclamation shall be made with regard to their electoral district, it shall be the duty of such stipendiary Magistrate or Justice, upon receipt of such requisition, to scrutinize the names of electors to this requisition, and being satisfied that the names of the said electors to said requisition are duly qualified and registered, certify such requisition, and transmit the same to his Excellency the Governor in Council, who shall appoint by public notice in some newspaper within the district, or if there be no newspaper published in the district, then in some newspaper as near thereto as may be, and also by posting up such notices or copies of the same at the various polling places within said district, such a day in one of the months of October, November, January or February next ensuing, as shall be most convenient, and not less than four weeks from the date of such notice, and at a convenient place or places within the said district, for the taking of a poll, to determine whether or not such proclamation shall be issued, said poll to be taken between the hours of eight in the forenoon and four in the afternoon of the day so appointed. Should any riot or interference take place so as to prevent polling, such polling shall be continued on the next succeeding lawful day.

3. From the time of the receipt by the said stipendiary Magistrate or Justice of such requisition for a poll, and until the result of such poll in favour of such prohibitory proclamation be known, no new licenses shall be granted, nor existing licenses renewed, during the period intervening between such poll and the issue of such proclamation within such district.

4. On the day appointed for taking the poll, such stipendiary Magistrate or Justice shall act in the capacity of Returning officer, unless the Governor in Council shall appoint some other person to act in that capacity; and such officer shall have all the powers for the preservation of the public peace which are by law vested in a Returning officer at any election of representatives to the House of Assembly.

5. The Returning officers and poll clerks shall subscribe and swear to the oath for the due and proper performance of the duties of their respective offices, according to the form prescribed in the schedule to

this chapter, before any stipendiary Magistrate, the nearest resident Justice or a commissioner of affidavits, and shall be subject to the same penalties for the neglect or improper discharge of their respective duties as are imposed on similar officers in cases of the election of representatives to the House of Assembly.

6. The said stipendiary Magistrate or Justice shall furnish the Returning officer with a correct list of the qualified electors within the electoral district for which the poll is to be taken, and such Returning officer shall, in case of doubt, have the power to administer to voters the oaths as to qualification required in cases of the election of representatives to the House of Assembly.

7. Each elector desiring to vote shall come forward in turn to the person presiding, and shall give his vote "yes" or "no," the word "yes" meaning that he votes for such prohibition, as aforesaid, and the word "no" that he votes against the same; and every vote given shall be recorded in a poll book by the person or persons appointed to act as poll clerk or poll clerks, and all votes shall be taken under the same restrictions and regulations, with regard to the eligibility of voters, as are binding with regard to the present electoral franchise, and shall be subject to the same or similar revision.

8. At the close of the poll the Returning officer shall count the "ayes" and the "noes," and ascertain and certify on the face of the poll book the number of votes given for and against the prohibitory proclamation respectively, and such poll book and certificate shall be countersigned by the poll clerks, and the poll book with such certificate thereon shall, without unnecessary delay, be forwarded to his Excellency the Governor in Council.

9. If two-thirds of the votes polled are in favour of such prohibition as aforesaid, the said stipendiary Magistrate or Justice shall immediately notify the Governor in Council thereof, forwarding at the same time a copy certified by him of the poll book and the certificates of the Returning officer and poll clerks, and upon the receipt of such notification and copies by the Governor in Council, such proclamation, should the result of the polling have been in favour thereof, shall be issued with regard to the district so deciding in its favor.

10. After a poll has been taken in any electoral district, no new poll shall be had until the expiration of three years from the date of the former poll, or from the date of the said proclamation, should the result have been in favour thereof; and if no requisition for a new poll be made within three months of the expiration of such proclama-

tion, the operation of the said proclamation with reference to any district shall be considered as agreed to by the electors of such district, and a new proclamation shall be issued as of course, containing the provisions of the former proclamation, which shall continue in full effect for three years from the expiry thereof, notice of such expiration to be given three months prior thereto.

11. From the day in which such proclamation shall be issued within any electoral district, and during and until the expiration of three years therefrom, no person (unless it be for exclusively medicinal or sacramental purposes, or for *bona fide* use in some art, trade, or manufacture, or except as hereinafter provided) shall, within the limits of such electoral district, expose, or keep for sale, by retail, directly or indirectly, or by any pretence or any device, sell or barter, or, in the consideration of the purchase of any other property, give to any person any spirituous or intoxicating liquors, or any mixed liquors capable of being used as a beverage, any part of which is spirituous or otherwise intoxicating, and no new license for the retail of any spirituous or intoxicating liquors shall be granted: Provided that nothing herein contained shall prevent any person holding a license at the time of the issue of such proclamation from selling such liquors until the expiry of and in accordance with the terms of such license.

12. Any person who, in the employment or on the premises of another, exposes or keeps for sale, or sells or barter, or gives in violation of the preceding section, shall be held equally guilty with the principal, and shall incur the same penalty.

13. Any person violating the eleventh section of this chapter shall be liable to the same penalties as are imposed upon persons selling spirituous or intoxicating liquors without a license under the existing license laws; and all such penalties shall be sued for, imposed, recovered and appropriated in the same manner, and subject to the same provisions as in cases of violation of the said license laws; and all proceedings for the recovery of such penalties shall be subject to the same provisions, with respect to appeal, revocation, or removal by writ of *certiorari*, or otherwise, as in the case of penalties under the said license laws.

14. During the continuance of any proclamation issued under this chapter, with respect to any electoral district, no license for the sale, by retail, of spirituous or intoxicating liquors, in any locality beyond the limits of such electoral district, shall be of any avail for the purpose of authorizing the sale of any such liquors within the limits of

such electoral district, and any sale of spirituous or intoxicating liquors within the limits of such electoral district, effected under the assumed authority of such license, shall be deemed to be a violation of the eleventh section of this chapter, and shall incur the same penalties as a sale of spirituous liquors without a license.

15. From the day in which such proclamation shall be issued within any electoral district, and during and until the expiration of three years therefrom, it shall not be lawful to sell, barter, or give, in consideration for any other property, any intoxicating liquors as aforesaid on board any vessel lying in any harbor within the limits of the said electoral district. Any person so offending shall incur the penalties prescribed in the thirteenth section of this chapter.

16. The fees to be paid for poll booths, to Returning officers and poll clerks under this chapter, shall be

Poll booth, four dollars ;

Returning officer, ten dollars ;

Poll clerk, four dollars ;

which, with any other expenses incurred under this chapter, shall be paid by the inhabitants of any electoral district demanding a poll, and shall be secured to the Returning officer before such poll is demanded.

SCHEDULE A.

FORM OF REQUISITION FOR POLL.

We, the undersigned electors of the electoral district of _____ do hereby request that a poll may be taken of the electors of said district, to determine whether or not a proclamation prohibiting the sale of intoxicating liquors, and the issue of licenses therefor, shall be issued in this district, under the authority and for the enforcement of the fifty-first chapter of the consolidated statutes of this island, entitled "Of preventing the sale of intoxicating liquors."

B.

FORM OF RETURNING OFFICER'S AND POLL CLERK'S OATH.

I, _____ do swear that I will honestly, impartially, and without favour to any party, take the polls at this election, held under the provisions of the fifty-first chapter of the consolidated statutes of this island, entitled "Of preventing the sale of intoxicating liquors," and that I have not directly or indirectly received, nor will I hereafter directly or indirectly receive any money, gift, reward, promise, contract, or security for money or other reward, for or in respect of the

conduct I shall observe during or at the close of the ensuing poll, save and except such lawful compensation as I shall be entitled to receive in virtue of my appointment to, and the faithful and just execution of my duty as _____ at this election; and I do further swear that I will make a fair and true entry of all such persons as shall legally tender their votes before me, and otherwise act in accordance with the provisions of the said chapter.

(Deponent's name.)

Sworn before me at
day of

the
in presence of
(Magistrate's name.)

TITLE XV.

Of Newspapers, Copyrights, Patents, &c.

CHAPTER 52.

OF NEWSPAPERS, BOOKS, &c.

SECTION

- 1—No newspaper or other paper of a like description to be printed or published until an affidavit as to the facts herein specified shall have been lodged in the office of the Colonial Secretary.
- 2—Such affidavit to specify the real names, places of residence, &c., of the printers, publishers and proprietors, and also the title of such newspaper.
- 3—Similar affidavits to be made as often as the place of publication, printer or proprietor of such newspaper shall be changed.
- 4—Such affidavit to be made in writing by the printer, publisher or proprietor, and to be signed by the person making the same before a stipendiary Magistrate.
- 5—Persons omitting to set forth in their affidavits the real facts as herein required, to be deemed guilty of perjury.
- 6—Such affidavits to be kept and filed as the Secretary may direct, and certified copies thereof to be received in evidence. Proviso as to persons who may have ceased to be printers, publishers, &c. Proviso. Affidavits to be evidence against such

SECTION

- persons only as have made the same, unless where a copy has been lodged.
- 7—Newspapers to set forth the names of the several printers, publishers and proprietors. Penalty.
- 8—After affidavits of the nature herein required shall have been put in evidence, proof of the identity of newspapers to be unnecessary.
- 9—Secretary to furnish certified copies of affidavits required as evidence.
- 10—Copies of newspapers signed by the printer to be lodged with the Secretary within six days after publication. Papers so lodged to be paid for. Penalty for neglect to lodge such papers. Papers so lodged to be produced in evidence by the Secretary when so required.
- 11—All books and papers to have the names and residence of the printers and publishers distinctly set forth therein. Penalty. Chapter not to extend to papers, &c., printed for the Government or the Legislature, or containing any religious instruction.
- 12—Recovery and appropriation of penalties.

1. No person shall print or publish, or cause to be printed or pub-

lished; any newspaper or other paper containing public news or intelligence, or serving the purpose of a newspaper, until an affidavit as hereinafter mentioned shall be delivered to the Colonial Secretary, or to some officer in the respective towns and at the respective offices which shall be appointed by the said Secretary for the purpose of receiving such affidavits, containing the several matters and things hereinafter for that purpose specified.

2. Such affidavit shall set forth the real names, additions, descriptions and places of abode of every person who is intended to be the printer and publisher of the newspaper or other paper mentioned in such affidavit and of all the proprietors of the same, and all the proprietors of the printing press and types generally used in the printing thereof, and a description of the building wherein any such paper is intended to be printed, and the title of such paper.

3. An affidavit of the like import shall be given in like manner as often as any of the printers, publishers or proprietors named in such affidavits shall be changed, or shall change their respective places of abode, or their printing house, place or office, and as often as the title of the paper shall be changed.

4. Every such affidavit shall be made by the printer or publisher or one of the proprietors of such newspaper or other paper, and shall be in writing, and signed by the person making the same, and shall be taken before a stipendiary Justice of the Peace.

5. If any person making such affidavit shall knowingly and wilfully insert or set forth therein the name, addition or place of abode of any person as proprietor, printer or publisher of any newspaper or other such paper as aforesaid to which such affidavit relates, who is not a proprietor, printer, or publisher thereof, or shall knowingly and wilfully omit to mention in such affidavit the name, addition and place of abode of any of the proprietors, printers or publishers thereof, or shall knowingly and wilfully, in any other manner or respect, set forth in such affidavit any matter or thing by this chapter required to be set forth, otherwise than according to the truth, or shall knowingly or wilfully omit to set forth therein, according to the truth, any matter or thing required by this chapter to be therein set forth, every such person so offending shall be liable to the pains and penalties to which persons are liable for wilful and corrupt perjury.

6. Such affidavits shall be filed and kept in such manner as the Secretary of this colony shall direct; and the same, or copies thereof, certified to be true copies as hereinafter mentioned, shall respectively,

in all proceedings civil and criminal, touching any newspaper or other such paper which shall be mentioned in such affidavits, or touching any publication, matter or thing contained in such newspaper or other paper, be received and admitted as conclusive evidence of the truth of all such matters set forth in such affidavits, as are hereby required to be therein set forth against every person who shall have signed and sworn to such affidavits, and shall also be received and admitted in like manner as sufficient evidence of the truth of all such matters against every person who shall not have signed or sworn to the same, but who shall be therein mentioned to be a proprietor, printer or publisher of such newspaper or other paper, unless the contrary shall be satisfactorily proved; and if any such person against whom such affidavit, or any copy thereof, shall be offered in evidence, shall prove that he hath signed, sworn, and delivered to the Secretary, or such officer to be appointed by him as aforesaid, previous to the day of the date or publication of the newspaper or other such paper to which the proceeding, civil or criminal, shall relate, an affidavit that he hath ceased to be the printer, proprietor or publisher of such newspaper or other such paper, such person shall not be deemed, by reason of any former affidavit so delivered, to have been the printer, proprietor or publisher of such paper after the day upon which such last-mentioned affidavit shall have been delivered to the said Secretary or the officer to be by him appointed as aforesaid: Provided, that no such affidavit shall be admitted as evidence against any person other than he who shall have made the same, unless it shall be proved that a copy thereof was furnished to such person, or left at his usual place of abode, before the publication of the matter or thing concerning which such proceeding shall have been instituted.

7. In some conspicuous part of every newspaper or other such paper there shall be printed in legible characters the name, addition and place of abode of the printer and publisher of the same, and also a description of the place where the same is printed; and in case any person shall knowingly and wilfully print or publish, or cause to be printed or published, any such newspaper or other such paper not containing the particulars aforesaid, and every of them, every such person shall forfeit and pay to our Lady the Queen the sum of two hundred dollars.

8. It shall not be necessary, after any such affidavit or a certified copy thereof shall have been produced in evidence against the person who signed and made such affidavit, or is therein named according to

this chapter, and after a newspaper or other such paper or book shall be produced in evidence, entitled in the same manner as the newspaper or other paper mentioned in such affidavit or copy is entitled, and wherein the name of the printer or publisher and the place of printing shall be the same as the name of the printer and publisher and the place of printing mentioned in such affidavit, for the plaintiff, informant or prosecutor to prove that the newspaper, or paper to which such trial relates, was purchased at any house, shop or office belonging to or occupied by the defendant or by his servant or workmen, or where he by himself or his servant usually carry on the printing or publishing such paper, or where the same is usually sold.

9. The Secretary or officer by whom any such affidavits shall be kept, according to the provisions of this chapter, shall, upon application made to him by any person requiring a copy certified according to this chapter of any such affidavit, in order that the same may be produced in any civil or criminal proceedings, deliver to the person so applying for the same such certified copy.

10. The printer or publisher of every newspaper or other such paper shall, upon every day upon which the same shall be published, or within six days after, deliver to the Secretary or to the officers by him appointed to receive the same, one of the papers so published upon each day, signed by the printer or publisher thereof in his handwriting, with his name and place of abode, and the same shall be carefully kept by the said Secretary or such officers in such manner as the said Secretary shall direct; and such printer or publisher shall be entitled to be paid half yearly the usual price for such paper, and the said Secretary is hereby authorized to pay for the same out of such moneys as may be at his disposal for disbursing the contingencies of his office; and in every case in which the printer and publisher of such newspaper or other paper shall neglect to deliver one such newspaper or other paper in the manner hereinbefore directed, such printer and publisher shall, for every such neglect, respectively forfeit and pay to our Lady the Queen the sum of two hundred dollars; and in case any person shall make application to the said Secretary, or to any such officer, in order that such newspaper or other paper so signed by the printer or publisher may be produced in evidence in any proceeding, civil or criminal, the said Secretary or such officer shall, at the expense of the party applying, at any time within two years from the publication thereof, either cause the same to be produced in the Court in which the same is required to be produced, and at the time when the

same is required to be produced, or shall deliver the same to the party applying for it, taking, according to his discretion, reasonable security at the expense of such party for the returning the same to the Secretary or such officer ; and in case, by reason that the same shall have been previously required by any other person to be produced in any Court, or hath been previously delivered to any other person for the like purpose, the same cannot be produced at the time required, or be delivered according to such application, the said Secretary or such officer shall cause the same to be produced, or shall deliver the same as soon as they are enabled so to do.

11. Any person who shall print any book or paper which shall be intended to be published or dispersed, whether the same shall be sold or given away, shall print upon the front of every such paper, if the same shall be printed on one side only, and upon the first and last leaves of every book or paper which shall consist of more than one leaf, in legible characters, his name, and the name of the city, town or place, and also the name (if any) of the square, street, lane, court or place in which his dwelling house or usual place of abode shall be ; and every person who shall omit so to print his name and place of abode on every such paper or book printed by him, and also every person who shall publish or disperse, or assist in publishing or dispersing, either gratis or for money, any printed paper or book, and on which the name and place of abode of the person printing the same shall not be printed as aforesaid, shall, for the publication or dispersion by him of every copy of such paper or book so published or dispersed, forfeit and pay to our Lady the Queen the sum of one hundred dollars. Nothing herein contained shall extend to any papers printed by the authority and for the use of the Government or either branch of the Legislature of this island, nor to any paper printed and published by any clergyman, and containing religious instruction only.

12. Proceedings for the recovery of all fines, penalties and forfeitures by this chapter imposed shall be by action, bill, plaint or information in the Supreme Court, in the name of her Majesty's Attorney or Solicitor General, and the money arising from such fines, penalties and forfeitures, when recovered, shall be paid to the Receiver General for the use of the colony.

CHAPTER 53.

OF THE IMPORTATION OF BOOKS AND THE PROTECTION OF THE BRITISH AUTHOR.

SECTION

1—Reprints of books protected by copy-right laws to pay an *ad valorem* duty of twenty dollars per cent. Not to apply to periodicals containing only extracts from protected works. Application of duties.

SECTION

2—Penalties for infringement of chapter. Recovery of penalties and application thereof.
3—Meaning of certain terms used in this chapter.
4—Reprints to be stamped on entry.

1. Upon the importation from foreign countries of any reprint of any book or review, bound or in covers, first composed, written or published in the United Kingdom of Great Britain and Ireland, and protected, at the time of importation, by the acts of the Imperial Parliament to enforce the law of copyright, there shall be paid an *ad valorem* duty upon the *bona fide* price of such reprints, of twenty per cent; but the reprint of any book or review not duly registered according to the provisions of the statutes of the Imperial Parliament relating to copyright, shall not be liable to such *ad valorem* duty. Such duties shall not be paid on newspapers or other regular periodicals containing extracts only from such books or reviews; and after collection of the proper duties the same shall be paid to the author of the said book or review, or to the proprietor of the said copyright, as her Majesty shall be pleased to direct.

2. No person shall import or bring, or cause to be imported or brought into this colony, for use, sale or hire, any reprint referred to in the foregoing section, and therein and thereby made liable to duty, contrary to this chapter, or knowingly sell, publish, or expose to sale, or let to hire, or have in his possession, for use, sale or hire, any such reprint; and every such reprint so imported, or bought, sold, published, or exposed for sale, shall be forfeited and sold, one half the proceeds thereof to be applied to the use of the officers of the customs seizing the same, and the other half to the author or proprietor of the copyright; and every person so offending, being convicted thereof before any two Justices in the district where the seizure is made, shall, for every such offence, forfeit the sum of twenty-five dollars and double the value of every copy of such book or reprint which he shall so import or cause to be imported into this colony, or shall knowingly sell, publish or expose

to sale, or let to hire, or shall have in his possession for sale or hire, contrary to this chapter; eight dollars of such penalty, after deducting expenses of prosecution, shall be paid to such officers of customs, and the remainder of the penalty to the proprietor of the copyright; and the said double value of such book or reprint, and the said respective proportions of the proceeds of the sale of such book or reprint, and of such penalty, shall be paid as hereinbefore provided.

3. In the construction of this chapter, the word "book" or "reprint" shall mean and include every volume, part or division of a volume, pamphlet, sheet of letter press, sheet of music, map, chart or plan, separately published; and the word "copyright" shall mean the sole and exclusive liberty of printing or otherwise multiplying copies of such volume, part or division of a volume, pamphlet, sheet of letter press, sheet of music, chart or plan, separately published.

4. At the time of the entry of any such reprint of any book or review, the officers passing such reprint shall stamp the same; and the Receiver General shall furnish said officers with the form of stamp necessary for such service.

CHAPTER 54.

OF PATENTS.

SECTION

- 1—Governor in Council may grant letters patent for new and useful inventions.
- 2—The improver of a patented invention may have a patent for his improvement.
- 3—Copy of letters patent and of petition may be received from the Secretary's office.
- 4—Oath or affirmation to be taken before patent is granted.
- 5—Description of invention and model with drawings thereof to be filed with petition.
- 6—Patentee may assign his interest in patent.
- 7—Forfeiture for infringing patent right.
- 8—In actions for infringement, general issue may be pleaded.
- 9—No applicant to be deprived of his right to a patent in this colony by reason of obtaining patent elsewhere. No patent to be in force in this colony which has expired elsewhere.

SECTION

- 10—Letters patent may issue to assignee of persons obtaining patents elsewhere.
- 11—Patents not brought into operation within twelve months to be forfeited.
- 12—Notice of intention to apply for patents to be published in "Gazette," &c.
- 13—Remedy where patentee takes a larger interest than his invention entitles him to.
- 14—Disclaimer of surplus where specification is too broad.
- 15—Remedy where patent becomes invalid by reason of a defect in description, &c.
- 16—Original patentee's right to patent any improvement he may make on his invention.
- 17—No patent granted elsewhere to be of effect in this colony, until specifications, &c., be filed in Secretary's office.
- 18—Affirmations and oaths.
- 19—Every patentee to pay fees of office and twenty-five dollars.

1. Whenever any person shall apply to the Governor, alleging that he hath invented and discovered any new and useful art, machine, manufacture or composition of matter not theretofore known or used, and shall, by petition to the Governor, signify his desire to obtain an exclusive property in such new invention and discovery, and shall pray that a patent be granted for the same, the Governor in Council may direct letters patent under the great seal of this island to be issued, which letters patent shall recite the allegations and suggestions of the said petition, and shall therein give a short description of the said invention and discovery, and thereupon shall grant to such person, his executors, administrators or assigns, for a term not exceeding fourteen years, the full and exclusive right and liberty of making, constructing and using, and vending to others to be used, the said new invention or discovery; which letters patent shall be good and available to the grantee therein named, by force of this chapter, and shall be recorded in the office of the Colonial Secretary in a book to be kept for that purpose, and shall be delivered to the patentee; and the Gov-

error in Council may insert in any such letters patent a provision extending the operation thereof for a further term of seven years. Before the great seal of this island shall be affixed to any such letters patent, or the same shall be issued and signed as aforesaid, such letters patent shall be delivered to her Majesty's Attorney General, who shall examine the same, and shall, if he finds the same conformable to this chapter, certify accordingly, and return the same within fifteen days into the office of the Colonial Secretary, to be issued and signed.

2. Where any such letters patent shall be obtained by any person, and thereafter any other person shall discover or make any improvement in the principle or process of any such art, machine, or composition of matter for which such patent hath been granted, and shall make application for and obtain letters patent under this chapter for the exclusive right of such improvement, the person who shall obtain and procure letters patent for any such improvement shall not make, use or vend the original invention or discovery, nor shall the person who shall have procured letters patent for the original invention or discovery, make, use or vend any such improvement: Provided, that simply changing the form or the proportions of any machine or composition of matter, in any degree, shall not be deemed a discovery or improvement within the meaning of this chapter.

3. Any person may obtain from the office of the Colonial Secretary a copy of any such letters patent, or of the petition whereon the same were issued, or of any paper connected therewith, or any drawing relating to the same, on payment for such copy of such fees as are now payable at the office of the Colonial Secretary for copies of other documents.

4. Before any person shall receive any letters patent under this chapter such person shall make oath in writing, before one of the Judges of the Supreme Court, a stipendiary Magistrate or commissioner of affidavits, that he doth verily believe that he is the inventor or discoverer of the art, machine, composition of matter, or improvement for which he solicits letters patent, and that such invention or discovery hath not, to the best of his knowledge or belief, been known or used in this island or in any other country, which oath shall be delivered with the petition for such letters patent.

5. Together with such petition and oath, before any person shall obtain any letters patent, as aforesaid, such person shall also deliver into the office of the Colonial Secretary a written description of his invention, and of the manner of using or process of compounding the

same, in such full, clear, and exact terms as to distinguish the same from all other things before known, and to enable any person skilled in the art or science of which it is a branch, or with which it is most nearly connected, to make, compound and use the same ; and in case of any machine, shall deliver a model thereof into the office of the Colonial Secretary, and shall explain the principle and the several modes in which such person hath contemplated the application of that principle or character by which it may be distinguished from other inventions ; and shall accompany the whole with drawings and written references, where the nature of the case admits of drawings, or with specimens of the ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment, where the invention is of a composition of matter, which description, signed by such person and attested by two witnesses, shall be filed in the office of the Colonial Secretary, and copies thereof, certified under his hand, shall be evidence in all Courts where any matter or thing touching or concerning the said letters patent shall come into question : Provided that where, from the complicated nature of any machinery, the cost of a model thereof may be so great as to prevent any ingenious but poor person from obtaining patents for his useful inventions, the Governor in Council may dispense with the delivery of such model into the office of the Colonial Secretary previous to the granting of any such patent ; and the requisitions of this chapter being in all other respects complied with, such person shall be entitled to such patent as if such model had been so lodged.

6. Any patentee, his executors or administrators, may assign all his right, title and interest in the said invention and discovery in the letters patent to him granted, to any person, and the assignee thereof having recorded the said assignment in the office of the Colonial Secretary, shall thereafter stand in the place and stead of the original patentee, as well as to all right, privilege and advantage, as also in respect of all liability and responsibility as to the said letters patent, and the invention and discovery thereby secured ; and in like manner shall the assignees of any such assignee stand in the place and stead of the original patentee or inventor.

7. Whenever in any case any letters patent shall be or shall have been granted to any person under and by virtue of this chapter, and any person, without the consent of the patentee, his executors, administrators or assigns, first had and obtained in writing, shall make, devise, use, or sell the thing, invention or discovery whereof the ex-

clusive right is secured to the said patentee by such letters patent, such person so offending shall forfeit and pay to the said patentee, his executors, administrators, or assigns, a sum equal to three times the actual damage sustained by such patentee, his executors, administrators or assigns, from or by reason of such offence, which sum may be recovered, together with costs, by action on the case founded on this chapter, in the Supreme Court.

8. The defendant in such action may plead the general issue, and give this chapter and any special matter in evidence, tending to prove that the specification filed by the plaintiff does not contain the whole truth relative to the invention or discovery therein alleged to have been made by the said plaintiff, or that it contains more than is necessary to produce the described effect, (which concealment or addition shall fully appear to have been made for the purpose of deceiving the public,) or that the thing, invention or discovery thus secured by letters patent as aforesaid was not originally discovered by the patentee, but had been in use or had been described in some public work anterior to the supposed invention or discovery of the said patentee, or that he had surreptitiously obtained letters patent as aforesaid for the invention or discovery of some other person; in either of which cases, upon proof thereof, a verdict shall be returned and a judgment shall be entered for the said defendant with costs, and the said letters patent shall thereupon be and shall by the said Court be adjudged void.

9. No applicant shall be deprived of his right to a patent in this colony for his invention by reason of his having previously taken out letters patent therefor in any other country: Provided that such invention shall not have been introduced into public and common use in this colony prior to the application for a patent therein, and the patent granted in this colony shall not continue in force after the expiration of the patent granted elsewhere; and where more than one such patent or like privilege is obtained abroad, then immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges the patent granted in this colony shall cease to be in force; and no letters patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained elsewhere, and which shall be granted in this colony, after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

10. Letters patent may be issued by the Governor in Council to the assignee of any person who may have taken out letters patent for his

invention or discovery in any other country, but not for any invention or discovery made abroad for which no letters patent have been there obtained : Provided that the invention or discovery so assigned shall not have been introduced into public and common use in this colony prior to the application for a patent ; and that the assignee of such foreign patent shall file, with his application, the assignment duly proved, under which he claims a patent in this colony, and an affidavit setting forth the date of the patent abroad, that the article thereby patented has not been in public and common use in this colony, and that he is the assignee for a good consideration.

11. Any letters patent which may be taken out under or by virtue of this chapter, and which shall not have been brought into operation within two years next ensuing from and after the date thereof, such letters patent shall, at the expiration of the said period of two years, be void.

12. No letters patent shall be granted under or by virtue of this chapter until notice shall have been published in the *Royal Gazette*, and one other of the newspapers of this colony, for at least four weeks, of the intention of the applicant to apply for such letters patent ; and such notice shall contain, in general terms, the description of invention for which such letters patent shall be desired.

13. If by mistake, accident or inadvertence, and without any wilful default or intent to defraud or mislead the public, a patentee shall in his specification have claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, but of which he was not the original or first inventor, and shall have no just or legal right to claim the same, his patent in such case shall be valid for so much of the invention or discovery as shall be actually his own, provided it is a material and substantial part of the thing patented, and be plainly distinguishable from other parts patented without right ; and every such patentee and his legal representatives, whether holding the whole or a particular interest in the patent, may maintain suits at law or in equity for any infringement of such part of the same as is actually the invention or discovery of the patentee, although his specification may embrace more than he has a legal right to claim ; but if in such case the plaintiff shall obtain a verdict or judgment, he shall not be entitled to costs, unless before the commencement of the suit he shall have filed in the office of the Colonial Secretary a disclaimer, attested by a witness, of that part of the thing patented which was claimed without right ; and no person bringing a

suit shall be entitled to the benefits of this section if he shall have unreasonably neglected or delayed to record his disclaimer.

14. If through inadvertence, accident or mistake, a patentee shall have made his specification too broad, by claiming more than that of which he was the original or first inventor, (some material and substantial part of the thing patented being justly and truly his own,) such patentee or his legal representatives may disclaim the excess; the disclaimer shall be in writing, and shall state the extent of interest in the patent held by the party making the same; it shall be attested by a witness, and be recorded in the office of the Colonial Secretary; thereafter, such disclaimer shall be considered as part of the original specification, to the extent of the interest possessed by the party making the same, or by those claiming under him; but no such disclaimer shall affect any action or suit pending at the time of its being recorded, except so far as may relate to the question of unreasonable neglect or delay in recording the same.

15. If any patent shall become inoperative or invalid by reason of a defective or insufficient description or specification, or by reason of the patentee claiming in his specification, as his own invention, more than he had a right to claim, and the error has arisen from inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the Governor in Council upon the surrender of such patent, and upon petition therefor, may cause a new patent to be issued to the patentee for the residue of the term mentioned in the first patent, in accordance with the patentee's amended description and specification. In case of his death or the assignment by him of the original patent or any fractional interest therein, the right shall vest in his legal representatives, to the extent of their respective interests in such patent; and the patent so re-issued, together with the amended description and specification, shall have the same effect and operation in law as though the same had been originally filed in such amended form before the issuing of the original patent.

16. If an original patentee shall be desirous of adding a description and specification of an improvement upon his original invention or discovery, made or discovered by him subsequent to the date of his patent, he may, upon the like proceedings being had in all respects as in the case of an original application, have the same annexed to his original description and specification; and the Colonial Secretary shall certify upon such annexed description and specification the time of its being annexed and recorded; and thereafter it shall have the same effect in

law as if it had been embraced in the original description and specification, and had been recorded therewith.

17. No patent for any invention or discovery granted in England or elsewhere out of the colony, and extending to the colonies, shall be of force and effect in this colony until copies of the original specification and drawings filed, or duplicate of the models lodged in England or elsewhere out of the colony, upon which such patent was there obtained, shall be filed or lodged in the office of the Colonial Secretary, who shall grant a certificate of the lodging or filing of the same.

18. All oaths required by this chapter, unless otherwise directed, may be taken in this colony, before a Judge of the Supreme Court, or a commissioner for taking affidavits in the same; or in Great Britain or Ireland, before the Mayor of a city or borough, and shall be certified under the corporate seal; or in a foreign country, before a British Consul or vice-Consul, and shall be certified under his seal of office.

19. Any person who may take out letters patent under this chapter shall pay for the same such fees as are charged on documents issued under the great seal of this island, and shall, in addition, deposit with the Colonial Secretary the sum of twenty-five dollars, to be by him paid to the Receiver General for the use of the colony.

TITLE XVI.

Of the Public Expenditure.

CHAPTER 55.

OF OUTSTANDING DEBENTURES.

All outstanding debentures of the colony shall be assignable and transferable in the mode, and the principal and interest thereof respectively shall be payable at the times and in the manner prescribed in and by the said several debentures. And in case any of such debentures do not prescribe the mode of transfer or assignment, the principal and interest shall be payable to the endorsee or assignee thereof: Provided that in case of debentures issued without limit of time for repayment, or forming part of the consolidated debt of the colony,

the same may be called in and paid off at any time after the Government shall have given twelve months' notice in the *Royal Gazette* of its intention to redeem the same; and interest on such debentures shall cease at the times specified in such notice.

CHAPTER 56.

OF THE CONSOLIDATION OF PART OF THE PUBLIC DEBT OF THIS COLONY.

SECTION

- 1—\$335,338 to be raised by loan.
- 2—Monies how to be applied, &c.

SECTION

- 3—Receiver General to issue debentures, &c. Schedule.

1. The Governor in Council may consolidate the debt due upon debentures issued under an act passed in the twenty-sixth year of the reign of her present Majesty, entitled, "An act to reduce the interest payable upon the public debt of this colony, under the act nineteenth Victoria, chapter six, and twenty-first Victoria, chapter three, and payable in the years one thousand eight hundred and seventy-three and one thousand eight hundred and seventy-four, and raise, by tenders, a loan on the credit of the colony, a sum not exceeding in amount three hundred and thirty-five thousand three hundred and thirty-eight dollars, which sum shall be payable at such times as are prescribed in the schedule annexed, notice of such loan to be given in at least three newspapers besides the *Royal Gazette*.

2. The monies to be raised under this chapter shall be applied in liquidation and discharge of the debentures issued under the act twenty-sixth Victoria, chapter seventeen; and the Receiver General may exchange such debentures, by the holders thereof paying a premium of two and one half per cent. for debentures under this chapter: Provided application be made to the Receiver General, on or before the tenth day of August, of the year one thousand eight hundred and seventy-two.

3. The Receiver General shall issue to the parties loaning such monies, debentures, in sums of not less than two hundred dollars each, in the form prescribed in the schedule annexed, which debentures shall be signed by the Receiver General, and countersigned by the Colonial Secretary, shall be numbered in succession from one upwards, and shall be transferable and negotiable by endorsement thereof.

SCHEDULE.

I, _____, Receiver General of Newfoundland, do hereby certify that by virtue of an act passed in the thirty-fifth year of the reign of her present Majesty, entitled, "An act to authorise the consolidation of part of the public debt of this colony," I have received, by way of loan, from _____, the sum of _____ dollars, bearing interest at the rate of five per cent. per annum, payable half-yearly, on the last days of June and December in each year, until and after the expiration of twenty years from the date hereof, when it shall be optional with the Government to pay off the same, on giving twelve months' previous notice of such their intention.

Given under my hand at St. John's,
the _____ day of
A. D., 187 .

Countersigned,

Colonial Secretary.

Receiver General.

CHAPTER 57.

OF PENSIONS.

SECTION

1—Pensions to be paid quarterly.

E. M. Archibald.

Joseph Noad.

B. G. Garrett.

SECTION

John V. Nugent.

2—Certain pensions to cease on acceptance of office of equal or greater value.

1. There shall be paid quarterly to the several persons hereinafter mentioned, for their respective lives, out of the general revenue of this colony, the following pensions, to wit:

To the honorable Edward Mortimer Archibald, the annual sum of sixteen hundred and fifteen dollars and thirty-eight cents.

To the honorable Joseph Noad, the annual sum of thirteen hundred and fifteen dollars and thirty-eight cents.

To Benjamin Greer Garrett, Esquire, the annual sum of twelve hundred and sixty-nine dollars and twenty-three cents.

To John Valentine Nugent, Esquire, the annual sum of one thousand and forty dollars.

2. The said pensions to the said Edward Mortimer Archibald,

Joseph Noad, and Benjamin Greer Garret, shall cease upon their respectively accepting an office under the Government of this colony of equal or greater value.

CHAPTER 58.

OF THE SALARIES OF CERTAIN OFFICERS.

SECTION

- 1—Provision for payment of annual salaries to certain officers in the Government.
The Governor.
Chief Justice.
Assistant Judges.
Colonial Secretary.
Receiver General.
Attorney General.
Solicitor General.

SECTION

- Surveyor General.
Financial Secretary.
Sheriff of central district.
Sheriff of northern district.
Sheriff of southern district.
2—Salaries to be paid quarterly by warrant from Governor to Receiver General.
3—Salaries to be in full payment of services and in lieu of fees. Disposal of fees.

1. The following yearly salaries and allowances shall be paid to the undermentioned officers :

The Governor of the island and its dependencies, the sum of ~~nine~~ thousand and ~~six hundred~~ dollars.

The Chief Justice of the Supreme Court, the sum of ⁵⁻~~three thousand nine hundred and twenty-four~~ dollars.

Each of the assistant Judges of the said Court, the sum of ~~three~~ thousand dollars.

The Colonial Secretary and Clerk of the Council, the sum of ~~two~~ thousand dollars. *from ten hundred dollars*

The Receiver General, the sum of two thousand dollars. *from ten hundred*

The Attorney General, the sum of two thousand dollars. *from ten hundred*

The Solicitor General, the sum of ~~nine hundred and twenty-four~~ dollars.

The Surveyor General, two thousand dollars. *from ten hundred*

Such person as shall be appointed by the Governor in Council the Financial Secretary of this island, the sum of one thousand three hundred and eighty-five dollars.

The Sheriff of the central district, the sum of one thousand three hundred and eighty-five dollars.

The Sheriff of the northern district, the sum of one thousand three hundred and eighty-five dollars.

The Sheriff of the southern district, the sum of nine hundred and twenty-four dollars.

2. The said salaries shall be paid quarterly by warrant of the Governor on the Receiver General.

3. The salaries of the said officers, except that of the Colonial Secretary, shall be in full payment of the services of the incumbents thereof, and in lieu of all fees of office and perquisites whatsoever: Provided, that all fees by law recoverable in the said respective offices, except in that of the Colonial Secretary, shall be paid to the Receiver General for the use of the colony. The Colonial Secretary shall not be entitled to any fee on the issue of crown grants of land.

TITLE XVII.

Of Public Buildings and Establishments.

CHAPTER 59.

OF THE BOARD OF WORKS.

SECTION

- 1—Constitution of the Board.
- 2—Powers of Board.
- 3—Salary of chairman.
- 4—Secretary's salary. Allowance to non-official members.
- 5—Governor to make rules, &c. Board may make bye-laws.
- 6—Governor to appoint and remove officers and servants. Salaries, &c.

SECTION

- 7—Record of proceedings to be kept.
- 8—Governor may issue further or other orders.
- 9—Actions in name of chairman. Month's notice.
- 10—Salaries to be paid quarterly.
- 11—Board to make annual report to Legislature.

1. The Board of Works shall be composed of a chairman and four other members to be appointed, as occasion may require, by the Governor in Council, to hold office during pleasure, any three of whom shall be a quorum.

2. The Board shall have superintendence and management of Government House, Colonial Building, Court Houses, the Penitentiary and Gaols, Lunatic Asylum, Hospitals, Custom Houses, Light Houses erected and to be erected, Buoys and Beacons, Poor Asylum, and all other buildings and property belonging to the colony, and also of all public roads, streets and bridges, made or to be made, within the

colony : Provided that this section shall not affect the authority conferred on outport road commissioners by chapter seventy-five of these consolidated statutes, entitled, " Of roads."

3. The chairman of the Board shall have a salary of eleven hundred and fifty-four dollars.

4. The Board shall have a Secretary, to be appointed by the Governor in Council, and who shall hold office during pleasure, at a salary of nine hundred and twenty-four dollars. A sum not exceeding two hundred and thirty-one dollars shall be appropriated each year towards compensating non-official members of the said Board for their attendance: Provided that a member of the Assembly, who shall not receive any part of the said amount, shall not be disqualified from being appointed to the Board.

5. The Governor in Council shall have full power, at all times, to make and establish general rules for the meetings and management of the Board: Provided that the Board may make bye-laws and rules, subject to the approval of the Governor in Council.

6. The Governor in Council shall appoint and remove all officers, superintendents and keepers of public buildings and light houses, road inspectors and surveyors, and other necessary officers and servants of the said Board, and the persons so appointed shall respectively hold office during pleasure. The Governor in Council shall allow to all persons so employed such salaries or other compensation as he shall deem reasonable, but not to exceed the amount now allowed any officer, without the sanction of the Legislature, and subject to its annual revision and control.

7. The Board shall keep a full and true record of all proceedings had at the several meetings, and no such proceedings shall be of any force or effect until the same shall have been confirmed by the Governor in Council.

8. In case of any such proceeding, or any part thereof, not being confirmed, the Governor in Council may direct that some further or other proceeding be had by the said Board, and such direction shall be entered upon the records of the said Board, and shall be by them carried into effect.

9. All actions brought by or against the said Board may be taken in the name of the Chairman for the time being; and no action shall be commenced against the said Board for anything done in pursuance of the provisions of this chapter, until one month after notice in writing shall have been delivered to the said Chairman, or left at the office

of the said Board by the party who intends to institute such action, his attorney or agent, in which notice shall be clearly and explicitly contained the cause of action, the name and place of abode of the person who is to bring the same, and the name and place of abode of his attorney or agent.

10. The salaries payable under this chapter shall be paid quarterly by warrant on the Receiver General.

11. The Board shall make a general statement of their affairs to the Governor quarterly, and a particular report yearly of their proceedings, to be laid before the Legislature at the opening of the next session.

CHAPTER 60.

OF THE PENITENTIARY.

SECTION

- 1—Penitentiary to be used as a prison.
- 2—Who may be confined therein.
- 3—Superintendent to have same power as sheriff or jailor.
- 4—Officers or servants breaking rules of penitentiary, how punished.

SECTION

- 5—Account of expenses to be laid before Legislature.
- 6—Protection of superintendent, &c.
- 7—Judge, &c., may visit penitentiary.

1. The Penitentiary situate in the central district shall be used as a prison for offenders, and for the confinement of persons imprisoned for debt.

2. All persons convicted of any crime or offence, and all persons who shall be committed or ordered to be imprisoned under any criminal charge, or criminal or civil process or proceeding, may be confined in the said Penitentiary for their respective terms of imprisonment, or as committed or ordered by any of the Courts, Judges or Justices of this island or its dependencies, and the said respective Courts, Judges and Justices may cause all persons sentenced, committed or ordered to be imprisoned to be taken to the said Penitentiary, and make all necessary regulations for the conveyance of such persons; and the superintendent or keeper of the said Penitentiary shall receive such persons into his custody, there to remain for their respective terms or conditions of imprisonment, or until discharged by due course of law.

3. The superintendent or person under him having the custody of

any prisoner shall, during the term for which such person shall be ordered to remain in custody, have the same powers over him as are incident to the office of Sheriff or jailer; and in case of any misbehaviour or negligence in the discharge of his office shall be liable to the same punishment to which a jailer is now liable.

4. Every officer or servant of the Penitentiary bringing or carrying out, or endeavouring to bring or carry out, to or for any convict or criminal, money or any article not allowed by the rules of the Penitentiary, shall be forthwith suspended by the superintendent, who shall forthwith report the offence to the Chairman of the Board of Works, and the Board shall enquire thereof upon oath, which any one of them may administer, and upon proof of the offence, and with the consent of the Governor in Council, may dismiss such officer or servant; and also may cause the offender to be apprehended and carried before a stipendiary Justice, who shall hear and determine any such offence in a summary way; and every officer or servant, upon conviction of such offence before a Justice, shall be liable to a penalty not exceeding two hundred dollars, and in default of payment of such penalty to be imprisoned in the Penitentiary, there to be kept with or without hard labour for any term not exceeding six months.

5. An account of the expenses of carrying this chapter into execution shall be annually laid before the Legislature, and after deducting therefrom any profits arising from the earnings of the prisoners, the balance shall be provided for by such sums as may be granted by the Legislature.

6. All laws now or hereafter to be in force in this island for the protection of Justices in the execution of their office shall extend to the Board of Works and the superintendent or keeper of the Penitentiary, when acting under the provisions of this chapter.

7. The Judges of the Supreme Court, Justices of the Peace, and members of both branches of the Legislature, may at all seasonable times visit and inspect the said Penitentiary.

CHAPTER 61.

OF THE ERECTION OF A HOSPITAL IN THE TOWN OF ST. JOHN'S.

- | | |
|---|---|
| 1—Necessary funds may be raised by loan,
not to exceed \$40,000. | 3—Receiver General to issue debentures, &c. |
| 2—How raised. | 4—When debentures may be paid. |
| | 5—Sinking fund. |

1. The Receiver General may raise by loan, from such parties or bodies corporate or politic as will advance the same, a sum not exceeding forty thousand dollars, for the erection of a hospital in the town of St. John's, in such amounts and at such times as the Board of Works, with the assent of the Governor in Council, may require the same, chargeable upon and to be repaid out of the public funds of this colony, together with interest not exceeding the rate of five dollars per centum per annum thereon; such sum of money, if required, to be applied and appropriated by the Board of Works towards the carrying into effect the provisions of this chapter, and which sum of money, when so raised by loan for such purpose, the Receiver General may add to the consolidated debt of this colony.

2. The said loan shall be raised by public advertisements for tender thereof, and the interest of the money loaned shall be paid half-yearly, on the last days of June and December in each year.

3. The Receiver General shall issue to the parties advancing such moneys debentures in the form and to the effect set forth in the schedule annexed to this chapter; which debentures shall not be issued for sums less than two hundred dollars respectively, and shall express therein the rate of interest to be paid, and the day of the month and year in which they shall be issued; and shall be numbered consecutively, and shall be signed by the Receiver General and countersigned by the Colonial Secretary, and shall be assignable and transferable by endorsement thereof.

4. Such debentures shall be payable at par, at any time after the Government of this colony shall have given twelve months' public notice in the *Royal Gazette* of their intention to pay off and redeem the same; and the interest on such debentures as shall be called in shall cease at the times specified in the said notice for redemption thereof.

5. To form a sinking fund to aid in paying off the said debentures, the Receiver General shall yearly pay into the Newfoundland Sav-

ings Bank, out of any surplus moneys remaining unappropriated in his hands, (to the credit of the said fund,) a sum equal to two dollars per centum per annum on the amount of debentures which shall have been issued as aforesaid, which shall be applied to the liquidation of the same.

SCHEDULE.

No.
Newfoundland.

\$
Consolidated Stock.

DEBENTURE.

I, _____, the Receiver General of this colony, do hereby certify and declare that by virtue of the provisions of chapter sixty-one of the consolidated statutes of this island, entitled "Of the erection of a hospital in the town of St. John's," I have borrowed and received, by way of loan, from _____ the sum of _____ dollars bearing interest from the date hereof, until re-payment of the principal sum, at the rate of five dollars per centum per annum, which interest is payable half-yearly, on the last days of June and December in each year; and I do further certify that the said principal money will be paid and payable to the said (tenderer's name), or his assigns or endorsees, on the production of this debenture at my office, in St. John's, at such time as shall be stated in a twelve months' notice to be inserted by the Government in the *Royal Gazette* of this colony of their intention to pay off the same.

Given under my hand at St. John's, Newfoundland, the day of _____, in the year of our LORD one thousand eight hundred and _____

Receiver General.

Countersigned,
Colonial Secretary.

CHAPTER 62.

OF LIGHT DUES AND LIGHTHOUSES.

SECTION

- 1—Light dues.
- 2—No greater sum than \$115 shall be levied in any one year.
- 3—Receiver General to appoint persons in the outports to receive dues.
- 4—Recovery of dues.
- 5—Vessels not to be admitted to entry until light dues paid.

SECTION

- 6—Application of money.
- 7—Appropriation of surplus of lighthouse fund.
- 8—Signal guns, bells or gongs.
- 9—Tonnage dues on foreign vessels.
- 10—Expenses of surveys of such vessels.

1. A duty or rate of twenty-four cents per ton shall be levied and paid upon every merchant ship or vessel according to its registered

tonnage which may enter any port or place within this colony, from Cape Ray extending eastwardly to Cape Race, and thence northwardly to Cape John, other than coasting, sealing or fishing vessels registered in this colony, said duty to be levied once in each year. And there shall be levied and paid upon every registered decked vessel of forty tons and upwards, registered in this colony, employed in the sealing, fishing or coasting trade of this colony or the Labrador, and which may enter at or clear from any of the ports or places aforesaid, the duty or rate of twelve cents per ton, to be paid once in each year, and upon every such vessel of less than forty tons the sum of three dollars and forty-six cents per annum; and should any of the above mentioned class of vessels engaged in the said fisheries, paying the duty of twelve cents per ton herein imposed, proceed on a foreign voyage, such vessel shall not be liable to any further rate than the said twelve cents per ton in any one year during which such vessel shall have been engaged in the said fisheries.

2. No greater sum than one hundred and fifteen dollars shall be levied in any one year for light dues on any steamer or vessel entering any port of this colony; and no steamer plying between Europe and North America, and on her said voyages entering any port of this colony as a port of call, shall be liable to pay any light dues.

3. The Receiver General may appoint the several sub-collectors within the colony, or some other fit persons in such ports where no such sub-collector shall reside, to demand, recover and receive the said duties and rates imposed by this chapter; and the moneys raised and levied under the provisions hereof shall by such person be paid over quarterly to the said Receiver General, and there shall be allowed to such persons so appointed in the outports a commission of five dollars per centum upon the amounts collected by them respectively.

4. On the non-payment by the master or any person having charge of or any owner of any ship or vessel of any rate or duty payable or incurred under this chapter, such rate or duty shall and may be sued for and recovered in a summary manner, in the name of the Receiver General or other person authorised to receive the same; before any one or more Justice or Justices, within the district where the Receiver General or such other person so authorised may reside, together with all costs incurred, and shall be levied by warrant and distress of such Justice or Justices on the goods and chattels of the owner or of the master or other person in charge of the respective ship or vessel on account of which the said rate or duties shall respectively be payable.

5. Neither the Receiver General nor any sub-collector or other officer of customs shall admit to entry any ship or vessel subject and liable to the payment of any such rates or duties until the said rates and duties shall be paid to the person authorised to receive the same, or grant a clearance to any coasting, sealing or fishing vessel, within the description hereinbefore set forth, until the several rates and duties aforesaid shall be paid to the person authorized to receive the same.

6. All moneys which shall be received under this chapter shall be applied to the support of the several lighthouses in this colony. And any surplus light money which may remain after providing for the above purposes, shall be kept separate from the ordinary revenues of the colony.

7. The Governor in Council may appropriate such sum of money as shall remain in the hands of the Receiver General from time to time unexpended out of the light dues received by him, after defraying the costs of maintaining existing lighthouses, towards the erection and maintenance of such lighthouses as may be authorised by the Legislature.

8. The Governor in Council may establish signal guns, bells or gongs in the several lighthouse establishments for the safety of shipping.

9. All tonnage dues upon foreign vessels shall be assimilated to and in conformity with the tonnage dues of British vessels; and such foreign vessels shall be measured according to rules specified in an act of the Imperial Parliament passed in the seventeenth and eighteenth years of the reign of her present Majesty, known as the Merchants' Shipping act of one thousand eight hundred and fifty-four.

10. When there is an increase of tonnage dues arising from such measurement, the expense of the measuring surveyor shall be borne by the Government of this colony, but when otherwise, by the owner or master of such foreign vessel.

CHAPTER 63.

OF CAPE RACE AND CAPE PINE LIGHTHOUSES.

SECTION

Preamble.

1—Duty of 1-16th of a penny per ton to be levied and applied for the support of Cape Race light.

2—Receiver General to furnish quarterly accounts of such duty, &c.

SECTION

3—And pay over all such dues to the Paymaster General.

4—Exemptions of her Majesty's ships.

5—Imperial lighthouse act of 1855, to apply to Cape Pine lighthouse.

Whereas, under and by virtue of an act passed by the Imperial Parliament of Great Britain and Ireland, in the nineteenth and twentieth years of her Majesty's reign, entitled "An act to facilitate the erection and maintenance of colonial lighthouses, and otherwise to amend the Merchant Shipping act, 1854," it is provided, that in any case in which any lighthouse, buoy, or beacon, has been or is hereafter erected or placed on or near the coasts of any British possession by or with the consent of the Legislative authority of such possession, her Majesty may, by order in Council, fix such dues, in respect thereof, to be paid by the owner or master of every ship which passes the same, or derives benefit therefrom, as her Majesty may deem reasonable; and whereas it is further provided by the said act, that no such dues shall be levied in any colony unless and until the Legislative authority in such colony has, either by address to the Crown or by an act or ordinance duly passed, signified its opinion that the same ought to be levied in such colony; and whereas it is also provided by the said act, that the said duties shall, in each British possession abroad, be collected by such persons as the Governor of such possession abroad may appoint for the purpose, and shall be collected by the same means, in the same manner, and subject to the same conditions, so far as circumstances permit, by, in, and subject to which the light dues levied under the Merchants' Shipping act, 1854, are paid and collected, or by such other means, in such other manner, and subject to such other conditions, as the Legislative authority in such possessions may direct; and whereas it is also provided by the like authority, that all such dues levied under the said act shall be paid over to her Majesty's paymaster, at such times, and in such manner, as the Board of Trade may direct, and shall, after deducting any expenses incurred in collecting the same, be applied, paid and dealt with by him for the

purpose of paying the expenses incurred in erecting and maintaining such lighthouse, buoy or beacon, and for no other purpose whatsoever ;

And whereas, by and with the consent of the Legislative authority of this colony, which is hereby signified, a lighthouse has been erected and is now lighted on Cape Race ; and whereas her Majesty, in the exercise of the powers vested in her by the said act, by and with the advice of her Majesty's Privy Council, has directed that upon and after the lighting of the said light upon Cape Race, as aforesaid, there shall be paid for every such ship as hereinafter mentioned (except ships belonging to her Majesty) the toll of one-sixteenth of a penny sterling per ton, of the burthen of every such ship for every such voyage as hereinafter mentioned, that is to say :

For all ships, whether sailing ships or steam ships, navigating from any port or ports in the British colonies in North America, to any port or ports in the United Kingdom ;

For all ships, whether sailing ships or steam ships, navigating from any port or ports in the United Kingdom to any port or ports in the British colonies in North America ;

For all ships, whether sailing ships or steam ships, bound from any port or ports in the British colonies in North America upon any trans-atlantic voyage.

For all ships, whether sailing ships or steam ships, arriving at any port or ports in the British colonies in North America after any trans-atlantic voyage ;

For all ships, whether sailing ships or steam ships, arriving at any port or ports in the United Kingdom from New York, or any port in the United States north of New York ;

And for all steam ships leaving any port or ports in the United Kingdom for New York, or any ports in the United States north of New York, passing the said light house, when the light is exhibited therein, and consequently deriving benefit therefrom.

And whereas it is necessary that provision should be made for the imposition and collection of the said dues on and from all such of said ships or vessels as shall from time to time enter or clear at and sail from any of the respective ports of this colony.

1. From and out of the amount of light dues, to which the ships or vessels hereinafter referred to are liable, by the laws of this colony, to pay upon entering or clearing at any port therein, there shall be appropriated and paid to her Majesty, in this colony, for the support and maintenance of the said lighthouse on Cape Race, in this island, and

for other purposes referred to in the said recited act, and according to the provisions of the laws now in force in this colony for the erection and maintenance of lighthouses, a toll or duty of one-sixteenth of a penny sterling per ton upon the tonnage burthen of every such ship as is hereinafter mentioned, on and for every voyage of such ship navigating between the following places, that is to say :

Upon the tonnage burthen of all ships or vessels navigating on any voyage from any port in this colony to any port in the United Kingdom of Great Britain and Ireland ;

Upon the tonnage burthen of all ships or vessels bound from any port in this colony upon any transatlantic voyage ;

Upon the tonnage burthen of all ships or vessels arriving at any port in this colony immediately after any transatlantic voyage ;

2. The Receiver General of this colony shall quarterly render an account to the office of Committee of Privy Council for Trade of the said duties or tolls that shall be taken and received in this colony ; and also an account of the particulars of the vessels which have paid such duties or tolls, giving the names of such vessels and the ports to which they belong, their tonnage, rate of toll, and the amount paid by each ship or vessel.

3. All dues or tolls to be levied and appropriated as aforesaid, under this chapter, shall be paid over by the Receiver General to her Majesty's Paymaster General, at such times and in such manner as the Board of Trade in the United Kingdom may direct.

4. Nothing in this chapter shall in any way apply to any of the ships of her Majesty.

5. As soon as her Majesty shall issue an order in Council for the purpose, or otherwise authorise the extension of the provisions of the Merchant Shipping act amendment act, 1855, for the support of the lighthouse erected at Cape Pine, on the western coast of this island, it shall be lawful for the Receiver General to pay over to the Paymaster General as aforesaid, a further sum equal to one-sixteenth of a penny sterling per ton out of the light dues payable under the laws of this colony in respect of all vessels arriving at or departing from any of the ports or places mentioned in the first section of this chapter, or such other vessel, or such other ports or places, as shall be stated in any such order or authority as aforesaid ; which sum shall be applied, in manner aforesaid, towards the support of the said lighthouse at Cape Pine, subject to all the regulations aforesaid.

CHAPTER 64.

OF HARBOR LIGHTS.

SECTION

1—Sixteen thousand dollars to be appropriated for harbor lights.

SECTION

2—Provision for maintenance of same.

1. The Governor in Council may appropriate a sum not exceeding sixteen thousand dollars for the erection of harbor lights in such localities as may be determined on.

2. The cost of the annual maintenance and support of the said harbor lights shall be chargeable on the general revenue of the colony.

CHAPTER 65.

OF THE ERECTION OF A LIGHTHOUSE ON OR NEAR CAPE SAINT FRANCIS,
ON THE NORTHERN COAST OF NEWFOUNDLAND, AND OF AN
OCEAN SEA LIGHT IN THE DISTRICT OF TWILLINGATE AND FOGO.

SECTION

1—Cape St. Francis lighthouse, and ocean sea light in Twillingate and Fogo.

SECTION

2—Board of Works shall procure plans, &c.
3—Governor to draw warrants, &c.

1. The Board of Works shall superintend the erection, completion, and management of a lighthouse on such a site as may be selected on Cape Saint Francis, on the northern coast of this island, and also of an ocean sea light on such site as may be selected in the district of Twillingate and Fogo, on the northern coast of this island, by the Inspector of Lighthouses, subject to the approval of the Governor in Council, and carry the provisions of this chapter into effect.

2. The said Board shall, without delay, procure plans and specifications of the said intended lighthouse or building and ocean sea light, and estimates of the expenses of materials and workmanship necessary to erect and complete the same; which plans, specifications, and estimates, together with all contracts relating to the said lighthouse and

ocean sea light, that may be entered into by the said Board, shall be laid before the Governor in Council for approval.

3. The Governor may draw warrants on the Receiver General, on the requisition of the said Board, for such sum of money as shall be necessary to defray the expenses of erecting, establishing, and completing the said lighthouse and ocean sea light and their appurtenances.

CHAPTER 66.

OF THE POST OFFICE, &c.

SECTION

- 1—Post office department subject to control of Governor in Council.
- 2—Postmasters to give bond.
- 3—Postmasters to be sworn.
- 4—Postmaster General to contract for carrying mails, &c.
- 5—Governor to make orders to carry chapter into effect.
- 6—Orders to be published in "Gazette."
- 7—Governor may sanction arrangements with other countries respecting mails.
- 8—Rates of postage.
- 9—Letters posted in this colony for delivery therein to be prepaid.
- 10—Appropriation of postage.
- 11—British postage to be accounted for and paid over.
- 12—Exemptions from postage.
- 13—Colonial stamps. Stamps evidence.
- 14—Newspapers.
- 15—Postage on books, magazines, &c., to be prepaid.
- 16—Governor may make orders for transmission of books, &c.
- 17—Rates of postage on books, magazines, &c. Registry of parcels.
- 18—Postage to Great Britain; to the United States and Provinces.
- 19—Appropriation of postage to and from the United Kingdom.
- 20—Postmaster not bound to give change.
- 21—Parliamentary papers free of charge.
- 22—Conditions respecting printed papers.
- 23—Postmaster to examine printed papers.
- 24—Questions regarding postage, how decided.
- 25—Newspapers may be re-directed, &c.
- 26—Masters of vessels delivering letters at post office to be remunerated. Declaration of masters of vessels.
- 27—Declaration to be delivered before entry

SECTION

- of vessel. Postmasters may appoint agents to demand letters.
- 28—Way offices to be established.
- 29—Postmaster General to take security from persons applying to extend postal communication.
- 30—Governor may arrange for transmission of colonial and foreign mails.
- 31—Postage marks evidence.
- 32—Officers exempt from juries.
- 33—Misconduct of couriers and others; how punished.
- 34—Couriers to pass ferries free.
- 35—Abettors punishable as principals.
- 36—Letters to be forwarded only by mail.
- 37—Penalty for retaining letter.
- 38—Penalty for conveying letter otherwise than by post, &c.
- 39—Letters sent otherwise than by mail, may be seized.
- 40—Postage, by whom and by whom payable.
- 41—Powers and duties of Postmaster General.
- 42—Postmaster neglecting to account, &c., to be sued.
- 43—Postmaster General to enter into contracts after notice for tenders.
- 44—Soldiers' and seamen's letters privileged.
- 45—Property in letters in whom vested.
- 46—Lost letters.
- 47—Penalty on officer delivering letter not having passed through post office.
- 48—Offences enumerated and punishment prescribed.
- 49—Suits may be compounded.
- 50—Recovery, &c., of penalties. Limitation of suit.
- 51—Registry of letters.
- 52—Saving of existing contracts.
- 53—Salaries of officers.
- 54—Definition of terms. Schedule.

1. The Governor in Council may (subject to the provisions and regulations of this chapter) open and close post offices and mail routes, and appoint, suspend or remove the Postmaster General, and all or any

Postmasters, officers, deputies, agents and servants, connected with the postal department.

2. The Postmaster General shall give bond in the sum of two thousand five hundred dollars, with two sureties in the sum of five hundred dollars each ; and deputy Postmasters shall give bond in such sum, and with such sureties, as may be directed by the Governor in Council.

3. No person shall be capable of holding the office of Postmaster, or of being an officer of the post office, unless such person shall have first made and subscribed the oath contained in schedule A annexed to this chapter, before a Justice, which oath such Justice shall administer accordingly : Provided that it shall not be necessary for any Postmaster or other officer now in the postal department, who hath already taken the oath of office prescribed by law, to make and subscribe the oath mentioned in this section.

4. The Postmaster General shall, subject to the approval of the Governor in Council, in manner hereinafter provided, enter into contracts, which shall be in writing, with any person for the carrying and delivery of mails or mail bags to and from such places as the Governor in Council may direct.

5. The Governor in Council may make such orders in conformity with this chapter as may be necessary for carrying out the same and promoting the objects thereof, and for extending postal accommodation, and for the transmission of money through the post offices within, to or from this colony, and all such orders shall be as valid as if contained in this chapter ; but no higher penalty than five hundred dollars shall be imposed by any such order in Council for the violation thereof.

6. Every such order of the Governor in Council shall be published in the *Royal Gazette* ; and every such order, within eight days after it is made, shall be laid before the Legislature if then in session, or otherwise within fourteen days after it shall meet.

7. The Governor in Council may make, authorise, sanction, or give effect to any arrangement which it may be necessary to make with the postal authorities of the United Kingdom, or of any British possession, or of any foreign country, with regard to the transmission of mails, letters, papers or packages, or collection and payment of postage.

8. The colonial postage on letters and packets posted within this colony, not being newspapers or printed pamphlets, magazines or books entitled to pass at the lower rates hereafter referred to, shall be at the rate of three cents currency per half ounce for a single letter

when prepaid, and so on in proportion to the weight established in the British post offices : Provided that unpaid letters not being circulars shall be charged with double postage at the foregoing rates.

9. All letters sent from this colony, and all local letters deposited in any post office in the colony for delivery or transmission within it, shall be prepaid by stamp, or otherwise such letters shall be chargeable with double postage to the receiver.

10. All colonial postage received within this colony shall be retained as belonging to it.

11. The British packet postage, and other British postage collected in this colony, unless otherwise provided for, shall be accounted for and paid over to the proper authorities in the United Kingdom ; but the colonial postage on the same letters or packets shall belong to the colony collecting it ; or if prepaid to the British post office, it shall be credited and belong to the colony to which such letters or packets are addressed.

12. The following matter shall be exempt from local postage, namely : first, letters and mailable matter addressed to or sent from the Governor or the following departments and officers, that is to say : the Colonial Secretary, the Attorney and Solicitor Generals, the Customs, the Surveyor General, the Board of Works, the Post office, the chief clerk of Supreme Court and superintendent of Police ; second, letters addressed to or coming from the President or any member of the Legislative Council, the Speaker or any member of the House of Assembly, during a session of the Legislature : Provided that the initials of the chief officer, secretary or clerk of the departments, or of either branch of the Legislature, or of the writer, if a member of the Legislature, as the case may be, shall form part of the address of such letters or other mailable matter.

13. Colonial stamps for the pre-payment of postage may be prepared, issued and sold, under the orders of the Governor in Council ; and such stamps prepared, issued and sold under the direction of the proper authorities in the British North American colonies shall in this colony be evidence of pre-payment of provincial postage, in such colonies respectively, on the letters or packets to which they are affixed.

14. Newspapers circulated in this colony, transmitted therefrom, or coming into the colony by post, shall be free of local postage.

15. Printed books, magazines, reviews or pamphlets, whether British colonial, or foreign, may be sent through the post from this colony to the United Kingdom, or from the United Kingdom to this colony, ac-

according to the British scale of postage, the postage in all cases being prepaid.

16. The Governor in Council may make such orders as may be requisite for the transmission through post of printed books, magazines, reviews and pamphlets, to and from other British colonies and the United States or other foreign country, in conformity as far as may be with the said scale of British postage, or such other scale of postage as the Governor in Council shall for that purpose adopt.

17. Printed books, magazines, periodical publications and pamphlets, may be transmitted by post within this colony at the rate of five cents for one quarter of a pound, and five cents for every additional quarter of a pound, up to three pounds, beyond which weight no printed book, publication or pamphlet, shall be transmitted by post. Parcels not exceeding three pounds weight may be transmitted on payment of twenty cents per pound, and a further charge of five cents on every quarter pound weight above one pound, and all such parcels may be registered; but the Governor in Council may by order alter, modify and reduce the rates of postage on such printed books, periodical publications, pamphlets or parcels.

18. The packet postage for letters to Great Britain shall be twelve cents the half ounce, ten cents of which shall belong to the English post office, and two cents to the Newfoundland post office. The packet postage to the United States and the provinces shall be thirteen cents single rate, except the packet postage from St. John's to the United States, Halifax, and Prince Edward Island, Bermuda and the West Indies, which shall be ten cents single rate, eight cents of which shall belong to the English post office, and two cents to the Newfoundland post office: Provided the Governor in Council may arrange for the alteration and apportionment of the above rates.

19. All moneys received on account of packet postage to and from the United Kingdom shall be carried to a separate account by the Postmaster General, and the same shall be remitted by the Governor, when required by the Imperial authorities, to the Postmaster General in England; and all other moneys received by the Postmaster General in this colony shall be paid by him, at the end of every quarter, to the Receiver General: and the Postmaster General shall also return to the office of the Financial Secretary, at the end of every quarter, a quarterly account of the whole revenue received by him.

20. The Postmaster General or Postmasters shall not be bound to give change, but the exact amount of postage on any letter or packet

shall be tendered or paid to him or them in current coin or in colonial postage stamps.

21. All papers ordered to be printed by either House of Parliament, or by her Majesty's command, or by the Legislative Council or House of Assembly of this colony, or by virtue of an address of the Legislative Council or Assembly, and all pamphlets not exceeding two ounces in weight, shall be transmitted by post within this colony free of postage.

22. No printed paper, whether newspaper, book, pamphlet or other paper permitted by this chapter to be sent by post shall be transmitted, either free or at a reduced rate of postage, unless the following conditions shall be observed :—First, it shall be sent without a cover, or in a cover open at the side or ends. Second, there shall be no words or communication printed on the paper after its publication, or upon the cover thereof, nor any writing or marks upon it or upon the cover of it, except the name and address of the sender, and of the person to whom it is sent. Third, there shall be no paper or thing enclosed in, or with any such paper or publication.

23. The Postmaster or any of his officers may examine any printed paper or packet which shall be sent by the post, either without or with a cover open at the sides or ends, in order to discover whether it is contrary in any respect to the conditions hereby required to be observed ; and in any case, if the required conditions be not fulfilled, the whole of every such paper shall be charged with postage as a letter ; and as to every such printed paper going out of the colony, the Postmaster General may either detain the same or forward it by post, charged with letter postage.

24. In all cases where a question shall arise whether a printed paper is entitled to the privileges of a newspaper or other publication, as regards its transmission by post under this chapter, the question shall be referred to the Postmaster General, whose decision, with the concurrence of the Governor in Council, shall be final.

25. If any newspaper, or other printed paper privileged to go by post, and brought into this colony, shall be directed to a person who shall have removed from the place to which it is directed before the delivery thereof at that place, it may, provided it shall not have been opened, be re-directed and forwarded by post to such person at any other place within this colony free of charge for such extra conveyance ; but if such newspaper or other printed paper shall have been opened, it shall be charged with the rate of one cent on any such

papers if prepaid by stamp, and two cents if not prepaid, from the place of direction to the place at which it shall be ultimately delivered: Provided that all such newspapers and printed papers deposited for despatch by the Government coastal steamer shall be transmitted free of charge to the post or way office nearest to the person to whom directed.

26. For encouraging masters of vessels not being post office packets to undertake the conveyance of letters between places beyond the British North American colonies and this colony, and for regulating the conveyance and delivery of such letters, the Postmaster General may allow to the masters two cents for each letter they shall deliver to the post office at the first port they touch or arrive at in this colony, or with which they shall communicate when inward bound; and if from unforeseen circumstances the master cannot, upon delivering his letters at any outport, receive the money to which he is entitled, he shall be paid by means of an order on the Postmaster General at such other place as may be convenient. And every master of a vessel inward bound shall, at the port or place of arrival, sign a declaration in the presence of a person authorised to take the same at such port or place, who shall also sign the same, and the declaration shall be in the form or to the effect following:—

“I, A. B., master of the _____, arrived from _____ do, as required by the post office laws, solemnly declare that I have, to the best of my knowledge and belief, delivered or caused to be delivered at the post office, every letter, letter bag, package or parcel of letters that was on board the _____ except such letters as are exempted by such laws.”

27. No officer of the colonial revenue shall permit such vessel to enter or report until such declaration shall be made and produced; and no vessel shall be permitted to break bulk or make entry in this colony until all letters on board the same shall be delivered at the post office, where posts may be established, except such letters as are exempted by this chapter; and also except all such letters as shall be brought by a vessel liable to the performance of quarantine. All which last mentioned letters shall be delivered by the person having possession thereof to the persons appointed to superintend the quarantine, that all proper precautions may be by them taken before the delivery thereof; and when due care has been had therein, such letters shall be by them despatched in the usual manner by post; and the officer of the colonial revenue, at every port or place in this colony, shall search every vessel for letters which may be on board contrary to this chap-

ter, and may seize all such letters and forward them to the nearest post office ; and the officer who shall so seize and send them shall be entitled to a moiety of the penalties which may be recovered for any such offence ; and the Postmaster General may appoint agents to demand from the masters of vessels arriving in this colony all letters on board the same, and not exempted by this chapter, and the master of any such vessel shall forthwith deliver all letters on board to such person on his demanding the same.

28. The Postmaster General, with the approbation of the Governor in Council, may establish way offices in addition to the regular post offices ; and every person employed at a way office shall be liable to all the penalties imposed by this chapter on Postmasters and other officers of the post office.

29. The Postmaster General, with the concurrence of the Governor in Council, may enter into an agreement with, and take security from, any person applying to him to extend the accommodations of the post to any place, for indemnifying the revenue against the expense which shall be incurred thereby beyond the amount of postages received.

30. The Governor in Council may enter into arrangements or conventional agreements with any of the North American colonies, or any foreign country, for the transmission of colonial or foreign newspapers, or other printed papers, within or through this colony, upon such terms and conditions as shall be reasonable, and may carry out such arrangements or conventional agreements by order in Council duly published as herein directed.

31. The postage marks, whether British, foreign or colonial, on any letter brought into this colony, shall in all Courts of justice, and elsewhere, be received as conclusive evidence of the amount of British, foreign, or colonial postage, payable in respect of such letter, in addition to any other postage chargeable thereon ; and all such postage shall be recoverable in this colony as postage due to her Majesty.

32. No Postmaster General, nor any officer of the post office throughout the colony, nor any courier, shall be compelled to serve on any jury or inquest.

33. If any person employed to convey or deliver a post letter-bag, or a post letter shall, while so employed, or whilst the same is in his custody or possession, lose a post letter-bag, or a post letter, or if any such person shall be guilty of drunkenness or of negligence or other misconduct, whereby the safety or proper delivery of a post letter-bag, or a post letter, shall be endangered or delayed, or shall collect, receive,

convey or deliver a letter otherwise than in the ordinary course of the post, or shall give any false information of an attempt at robbery upon him, or shall loiter on the road or passage, or wilfully misspend his time so as to delay the progress or arrival of a post letter-bag or a post letter, or shall not use proper care and diligence safely to convey a post letter-bag or a post letter at the rate of speed appointed by and according to the regulations of the post office for the time being, he shall forfeit a sum not exceeding fifty dollars.

34. No person in the employ of the post office, travelling with a mail, shall pay for passing or repassing a ferry; but the ferryman at every such ferry shall forthwith convey over such person travelling with a mail, without payment for the same, and in case of neglect or refusal so to do, he shall forfeit for every such offence twenty dollars.

35. Whoever shall abet or procure the commission of an offence which is by this chapter punishable on summary conviction, shall be liable to the same forfeiture or punishment to which a principal offender is by this chapter made liable.

36. Subject to the provisions and regulations herein contained, the Postmaster General and his subordinates shall have the exclusive privilege of conveying, receiving, collecting, sending and delivering letters within this colony; and any person who shall, except in the cases herein excepted, collect, send, convey or deliver, or undertake to convey or deliver, any letter within this colony, or who shall receive or have in his or their possession any letter for the purpose of conveying or delivering it otherwise than in conformity with this chapter, shall, for every letter so unlawfully conveyed, or undertaken to be conveyed, received, delivered, or found in his possession, incur a penalty of one dollar; but such exclusive privilege shall not apply to letters sent by private individuals to be mailed in the first way or post office.

Letters sent by a messenger on a purpose concerning the private affairs of the sender or receiver.

Letters sent and delivered by a friend to the party to whom directed.

Letters addressed to a place out of the colony, and sent by sea, and by a private vessel not being a packet boat.

Letters lawfully brought into the colony and immediately posted at the nearest post office.

Letters of merchants being the owners of merchant vessels, or of the cargo, or trading therein, sent by such vessel, or by any person employed by such owners for the carriage of such letters, according to

their respective addresses, and delivered to the persons to whom they are respectively addressed, without pay or advantage for so doing.

Letters concerning goods sent by common known carriers, to be delivered with the goods to which such letters relate, without reward or advantage for receiving or delivering them.

Letters received by private ships and commonly known as market circulars.

Provided that nothing herein contained shall authorise any person to collect any such excepted letters for the purpose of conveying or sending them as hereinbefore mentioned; and that any letters prepaid may be delivered by the officer to the courier, to be dropped along the route at convenient places; and that nothing in this chapter shall oblige any person to send any pamphlet, printed book or newspaper by post.

37. If any person on board any inward bound vessel shall knowingly retain any letter hereby exempted, he shall forfeit for every such letter twenty dollars to her Majesty for the use of the colony.

38. Whoever shall convey a letter otherwise than by post, (except as is herein provided for,) or shall perform any service incidental to the conveying of any such letter from place to place, or shall send or cause to be sent any such letter, or make a collection of exempted letters for the purpose of conveying them, shall for such offence forfeit twenty dollars; and whoever shall be in the practice of committing any of the several acts prohibited by this section for the space of one week shall, for every week he shall continue in such practice, forfeit four hundred dollars to her Majesty for the use of the colony.

39. Any person may, and any officer or person employed in the post office or in the collection of the revenue shall, seize any letters conveyed, received, collected, sent or delivered, in contravention of this chapter, and take them to the nearest post office, and give such information as he may be able to give to the Postmaster for the effectual prosecution of the offender; and the letters, moreover, shall be charged with letter postage.

40. As well the British, provincial or foreign, as the colonial postage on any letter or packet, shall, if not prepaid, be payable to the Postmaster General, by the party to whom the same shall be addressed, or who may lawfully receive such letter or packet; and any refusal or neglect to pay such postage shall be held to be a refusal to receive such letter or packet, which shall be detained and dealt with accordingly; but if the same be delivered, the postage on it shall be charged against

and paid by the Postmaster delivering it, saving his right to recover it from the party by whom it was due, as money paid for such party ; and if any such letter or packet be refused, or if the party to whom it is addressed cannot be found, then such postage shall be recoverable by the Postmaster General from the sender of such letter or packet ; and the postage marked on any letter or packet shall be held to be the true postage due thereon, and the party signing or addressing it shall be held to be the sender, until the contrary be shewn ; and all postage may be recovered, with costs, by civil action in any Court having jurisdiction to the amount thereof.

41. Subject to the provisions of this chapter, and to the orders made under it, and to the instructions he may receive from the Governor in Council, the Postmaster General shall have power to open and close post offices and mail routes, to suspend any postmaster or other officer or servant of the department, until the pleasure of the Governor in Council be known, and to appoint a person to act in the mean time in the place of such officer or servant, to enter into and enforce all contracts relating to the conveyance of the mails, the local accommodation of the department, and other matters connected with the business thereof, and to make rules and orders for the conduct and management of the business and affairs of the department, and for the guidance and government of the officers and servants thereof, in the performance of their duties ; to sue for and recover all sums due for postage or penalties under this chapter, or by any postmaster, officer or servant of the department, or his sureties ; and all such powers may be lawfully exercised by him, or by any postmaster, officer, servant or party whom he may depute to exercise the same, or whose act in that behalf he shall approve, confirm or adopt ; and every officer, servant or party, employed in the post office, shall, as regards the duties of the office held by him, be deemed the deputy of such Postmaster General ; and all suits, proceedings, contracts and official acts to be brought, had, entered into and done by the Postmaster General may be in and by his name of office, and may be continued in force and completed by his successor in office, as effectually as by himself. The appointment or authority of any Postmaster General, or of any Postmaster, officer or servant of the post office, shall not be liable to be traversed or called in question in any case, except only by those who act for the Crown. The Postmaster General shall pay over quarterly to the Receiver General all such sums of money as he may have received from the Postmasters or other persons for postages, penalties, or on any other account

connected with this chapter, or any rules, orders and regulations, now in force or made by virtue hereof; and shall, at the respective periods aforesaid, render an account in such form as the Governor in Council may prescribe, and shall annually render to the Governor, for the information of the Legislature, a general account current, showing the whole amount of postage received within the year, or due to the department from deputy Postmasters, or others, at the beginning of the year, and every other item of revenue or receipt; and also an account, in detail, of the charges and expenditure incurred by the department within the year.

42. If any Postmaster, or other person authorized to receive the postage of letters and packets, shall neglect or refuse to render his account, and to pay over to the Postmaster General the balance due by him, at the end of every three months, the Postmaster General shall cause a suit to be commenced against the person so neglecting or refusing; and all suits which shall hereafter be commenced for the recovery of debts or balances due to the post office, whether they appear to be due by bond, obligation or otherwise, made in the name of any preceding Postmaster General or otherwise, shall be instituted in the name of the Postmaster General.

43. The Postmaster General, previous to entering into any contract as aforesaid, shall cause printed notices for tenders to be posted up in the most conspicuous places in the town or settlement nearest to the place where the service is to be performed; and also insert a notice in the *Royal Gazette*, or in any other local newspaper, at least one month before the day limited for rendering such tenders; and such tender shall be signed by the person tendering, and by two responsible persons willing to become sureties for the due performance of the contract; and such tenders, when opened by the Postmaster General, shall be submitted by him to the Governor in Council, with such recommendation as he may be pleased to make upon them; and the one approved of, with notification to that effect, shall be returned to the Postmaster General aforesaid, who shall enter into the contract accordingly, with such penalty for the due performance thereof, as may have been specified in the notice to be given as aforesaid: Provided that the lowest tender, with sufficient security, shall be accepted, unless the same shall be considered unreasonable, or that the Governor in Council shall deem it to the advantage of the public interest to accept any other.

44. In every case in which any seaman in her Majesty's navy, ser-

geant, corporal, drummer, trumpeter, fifer or private soldier in her Majesty's service, shall be entitled to receive or send letters on the payment of a certain sum, and no more, in place of all British postage thereon, the payment of such sum shall likewise free such letter from all colonial postage thereon, and the Governor in Council may make orders for giving effect to this section.

45. From the time any letter, patent, chattel, money or thing, shall be deposited in the post office for the purpose of being sent by post, it shall cease to be the property of the sender, and shall be the property of the party to whom it is addressed, or the legal representative of such party.

46. The Postmaster General shall not be liable for the loss of any letter or packet sent by post, unless such loss shall have arisen from his own default.

47. If any person employed in connection with this chapter shall convey or deliver any letter not exempted by this chapter for or to any person without such letter shall have first passed through the post office, and shall have been regularly stamped or marked, such person shall be subject to a penalty not exceeding twenty dollars.

48. To forge, counterfeit, or imitate any postage stamps issued or used under the authority of this chapter, or by or under the authority of the Government or proper authority of the United Kingdom, or of any British possession, or of any foreign country, or knowingly to use any such forged, counterfeited or imitated stamp, or to engrave, cut or sink, or make any plate, die or other thing, whereby to forge, counterfeit or imitate such stamp, or any part or portion thereof, except by the permission, in writing, of the Postmaster General, or of some officer or person who, under the orders to be made in that behalf, may lawfully grant such permission, or to have possession of any such plate, die or other thing, without such permission, or to forge, counterfeit, use or affix to or upon any letter or packet any stamp, signature, initials, or other mark or sign purporting that such letter or packet ought to pass free of postage or at a lower rate of postage, or that the postage thereon, or any part thereof, hath been prepaid, or ought to be paid by or charged to any person or department, shall be felony, punishable by imprisonment with hard labor, for any period not exceeding ten years.

49. The Postmaster General, subject to the orders of the Governor in Council, may compromise and compound any suit or information which shall be commenced by his authority, or under his control,

against any person for recovering a penalty incurred under this chapter, on such terms and conditions as he shall in his discretion think proper, with full power to him or any of the officers and persons acting under his orders, to accept the penalty incurred or alleged to be incurred, or any part thereof, without suit or information brought for the recovery thereof.

50. All pecuniary penalties imposed by this chapter, or by any order of the Governor in Council, shall be recoverable with costs, by the Postmaster General, by action in any Court having jurisdiction to the amount, and shall belong to the colony, saving always the power of the Governor in Council to allow any part or the whole of such penalty to the officer or party by whose information or intervention the same shall have been recovered; but such penalties shall be sued for within one year after they are incurred, and not afterwards: Provided that if the penalty exceed one hundred dollars, the offender may be indicted for a misdemeanor in contravening the provisions of this chapter, or of the regulations made under it, instead of being sued for such penalty, and if convicted shall be punished by fine or imprisonment, or both, in the discretion of the Court.

51. The Postmaster General or Postmaster shall register all letters posted in his office when thereto required by the party posting the same, upon such party paying such officer such fee as shall be prescribed therefor by the Governor in Council, who is hereby authorised to make and prescribe such rules, orders, regulations and scale of fees as he may deem expedient for the purposes of this section.

52. Nothing in this chapter shall affect any subsisting agreement or contract made or entered into by virtue of any act of the Legislature in reference to the postal service in this colony.

53. The Postmaster General and other officers shall respectively receive, subject to the revision of the Legislature, the following annual salaries, in full of all fees and perquisites, payable quarterly:

The Postmaster General at St. John's.....	\$1,385
Chief Clerk and Accountant, St. John's.....	600
Second Clerk, St. John's	462
Third Clerk, St. John's	277
Assistant, St. John's	231
Second Assistant, St. John's.....	93
Letter carrier, St. John's	277
Office keeper, St. John's.....	93
Postmaster, Harbor Grace.....	231
Letter carrier, Harbor Grace.....	47
Postmaster, Carbonear	208

Postmaster, Brigus	\$163
Postmaster, Trinity	116
Postmaster, Placentia	70
Postmaster, Bonavista	70
Postmaster, Fogo	70
Postmaster, Twillingate	70
Postmaster, Bay Bulls	70
Postmaster, Ferryland	70
Postmaster, Trepassey	70
Postmaster, Little Placentia	70
Postmaster, Burin	70
Postmaster, Harbor Briton	70
Postmaster, Burgeo	47
Postmaster, Greenspond	47
Postmaster, New Perlican	47
Waymasters, each	19

54. The following terms and expressions shall have the several interpretations hereinafter set forth, unless they shall be repugnant to the subject or context, that is to say: "postage" shall mean the duty chargeable on letters transmitted within, from or to this colony, and all duty chargeable thereon before such letters came within the same; "letters" shall include packets of letters as well as single letters; "British mail" shall mean every conveyance, by which post letters shall be carried or conveyed to or from the United Kingdom of Great Britain and Ireland to or from this colony, or to or from this colony to or from the United States, any British colony, or any foreign country by a British vessel; "mails" shall include any horse, vehicle, vessel or other conveyance, and also a person employed in conveying or delivering post letters, and also every vessel which is included in the term "packet-boat;" and "mail-bag" shall mean a mail of letters, or a box, parcel or any other envelope in which post letters are conveyed, whether it do or do not contain post letters; "Postmaster General" and "post office" shall mean the colonial Postmaster General and post office, unless otherwise expressed.

SCHEDULE A.

FORM OF OATH TO BE SWORN BY EVERY OFFICER OF THE POST OFFICE.

I, _____ do solemnly swear that I will not open or delay, or cause or suffer to be opened or delayed contrary to my duty, any letter or any thing sent by the post, which shall come into my hands or custody, by reason of my employment relating to the post office, except by consent of the person or persons to whom the same shall be directed, or except in such cases where the party or parties to whom

Sworn before me at _____ this _____ day of _____
A. D., 18 _____

OF THE NEWFOUNDLAND SAVINGS BANK.

- 1—Receiver General and depositors to be body corporate by the name of the Newfoundland Savings Bank.
- 2—Revenue liable for deposits.
- 3—Governor to appoint cashier and Governors.
- 4—Governors to continue in office after termination of Assembly until appointment of successors.
- 5—Governor may disallow rules, &c., made by Governors.
- 6—Directors, how appointed.
- 7—Governors to fix salaries, except that of cashier; expenses not to exceed \$2,550.

- 8—Directors to superintend payment and receipts by cashier. Report to be laid before the Legislature annually.
- 9—Deposits, &c., to be kept in place of safety. Cashier to give security.
- 10—Rules regarding deposits.
- 11—Rules respecting trust money deposited by Supreme Court.
- 12—Governors may appoint branch Banks in outposts.
- 13—Disputes touching deposits may be heard and determined upon petition to Supreme Court.

2. The general revenue of this colony shall be liable for all moneys deposited in the Bank and all interest payable thereon.

3. The Governor in Council shall appoint a cashier of the Bank and eight Governors thereof, of whom five shall be selected from the members of the House of Assembly, including the Speaker thereof, and three

from the Legislative Council ; three of the Governors of the Bank shall be a quorum, and have full power to make, alter and amend rules and regulations for the management of the Bank : Provided that no person shall be a Governor thereof who shall be officially connected with any other Bank.

4. Upon the dissolution, or termination by efflux of time, of any Assembly, the Governors who may at such time be members of the Assembly shall continue in office until the appointment of their successors from the new Assembly.

5. The Governor in Council may disallow any rule, bye-law, or other proceedings of the Governors within one month after the same shall have been adopted ; and in order to the exercise of this power, copies of the minutes of the proceedings at every meeting of the Governors shall be immediately transmitted to the Colonial Secretary, for the information of the Government.

6. The Governors shall annually elect from among themselves three directors, who shall superintend the affairs of the Bank, in accordance with the rules and bye-laws prescribed for the management thereof.

7. The Governor may fix the salaries of the directors and any necessary officers they may appoint, subject to the revision of the Governor in Council, who shall fix the salary of the cashier of the Bank : Provided that the salaries and incidental expenses of the Bank shall not exceed two thousand five hundred and fifty dollars annually.

8. The directors shall personally superintend the payments and receipts by the cashier, examine his accounts and vouchers, and certify the same ; the cashier shall prepare a statement at the end of every year of the accounts and all proceedings, and a report of the state of the Bank, which shall be examined and certified by the directors, and be laid before the Legislature at the next session thereof.

9. All deposits, moneys, funds, securities, and other property of the Bank shall be kept in a place of safety, to be approved of by the Governor in Council, and the cashier shall be liable and give sufficient security, to be approved of by the Governor in Council, for the care, custody and safe-keeping thereof, and for the faithful discharge of the duties of his office ; but nothing herein contained shall prevent the directors of the Bank from lending, upon real, personal or Government securities, any funds of the Bank.

10. Depositors of sums of not less than four dollars, or over two hundred and fifty dollars, for a period not less than six months, shall receive interest at the rate of three per centum per annum thereon, but

no interest shall be calculated on the fractional part of a dollar, or for a less period than a month ; and no account shall be opened before the first day of the month next ensuing after the date of the deposits : Provided, that the Governor in Council may, by order, define and limit an amount over two hundred and fifty dollars to be received from depositors in the Bank, and the amount thereof upon which interest shall be payable.

11. Any money belonging to or held in trust for, an infant, idiot, lunatic, or a feme covert, or which may be paid into the Supreme Court under order or decree of the Court, may be received by the Bank, there to remain subject to the orders of the said Court, but the interest to be allowed thereon shall be in the discretion of the Governors, subject to the order of the Governor in Council.

12. The Governors may appoint branches or offices of deposit in any part of this colony for the convenience of persons residing at a distance from St. John's.

13. All disputes touching the deposits or other affairs or business of the Bank may be heard and determined upon petition to the Supreme Court.

TITLE XVIII.

Of the Public Health.

CHAPTER 68.

OF QUARANTINE.

SECTION

- 1—Governor to make general and particular quarantine orders.
- 2—Publication and proof of orders.
- 3—Orders shall have the force of law while unrevoked.
- 4—Governor to appoint health and other officers, and assign their duties.

SECTION

- 5—Customs officers and others to aid execution of orders.
- 6—Penalty for neglect of duty.
- 7—Vessels liable to fees, &c. Application of fees.

1. The Governor in Council may make such general and particular quarantine orders and regulations applicable to vessels, goods, persons and things being within this colony, or expected hither from abroad,

as they may deem expedient, and may affix penalties, forfeitures, and punishments for the breach of any such general or particular orders and regulations, and for the breach or violation of any provision of this chapter, except where otherwise provided.

2. The said general orders and regulations shall be notified by proclamation or published in the *Royal Gazette*, and the production of any such proclamation or publication shall be evidence of the making, date, and contents thereof. Particular orders may be proved either by the production of the original, or of a paper purporting to be a copy thereof, certified to be such under the hand of the Colonial Secretary, or any member of the Executive Council.

3. Such general and particular orders and regulations shall have the force of law while they remain unrevoked or unexecuted. Their expiry, revocation or amendment shall not prevent any person liable for a breach or violation during their operation from being tried and punished therefor.

4. The Governor in Council may appoint health and all other officers necessary for the due execution of the provisions of this chapter, and of the orders and regulations to be made thereunder, and shall appoint to such officers their respective duties.

5. Custom House officers, masters of tug boats and licensed pilots shall be subject to the orders of the Governor in Council, as the case may be, for the purpose of aiding in the execution of the provisions of this chapter and of the regulations and orders to be made thereunder.

6. Persons appointed or subject to the orders of the Governor in Council according to the provisions of the fourth and fifth sections of this chapter, who shall neglect the duties to be by them performed, or shall violate any of the provisions of this chapter or of any regulations or orders to be made thereunder, shall, besides being subject to punishment or forfeiture, also be liable to dismissal from all employment under the crown.

7. All vessels, and any particular class of vessels, and all vessels in particular, any or either of them, shall from time to time, at particular times or at all times, when the Governor in Council may deem it expedient, be subject to and chargeable with such fees and dues, either rated on the tonnage or otherwise, as may be directed by any general or particular order; and such fees and dues shall be a lien on the vessel before all other claims, and no vessel shall be entered or cleared outwards at the Custom House if such fees and dues be not duly paid, and the masters and owners of any such vessel shall be liable for such

fees and dues as for a crown debt, and such fees and dues shall be applicable for the purposes of this chapter.

CHAPTER 69.

BOARDS OF HEALTH.

SECTION	SECTION
1—Governor to appoint Boards. Power of Board.	cial matter in evidence. Limitation of suit.
2—Health Wardens.	7—Governor to affix penalties and forfeitures, &c.
3—Power of Wardens.	8—Persons in certain cases guilty of misdemeanor—mode of punishment.
4—Penalty on Health Wardens refusing to act.	9—Summary conviction. Not to be removed by certiorari. Proceedings not to be set aside for want of form.
5—Board of Health or Health Wardens may order removal of sick persons in certain cases.	10—Applications of penalties.
6—In actions against persons for acts done in pursuance of this chapter, defendants may plead general issue, and give spe-	11—Executive Council to have power in absence of Governor.

1. The Governor in Council may, for preventing the introduction or spreading of any contagious or infectious disease into or in this island or its dependencies, appoint such persons at the several ports of this island as may be required to act as Boards of Health for carrying into effect and enforcing the rules and directions in any order made under the provisions of chapter 68 of these consolidated statutes, entitled "Of Quarantine;" and also prescribe the particular duties and modes of proceeding to be executed or observed by such Boards of Health, and authorise them, or any of them, to make, establish, and cause to be observed any rules and regulations which may be found necessary to preserve the public health, and to render effectual all measures of precaution against the introduction or spreading of disease.

2. The Governor in Council may, from time to time, appoint Health Wardens for the several districts, who shall act gratuitously, and who may, in the day time, enter and examine all houses, buildings and places, and all vessels and boats, and report their condition, as required by the sanitary order in that behalf; and such Wardens shall when necessary give directions for cleansing any house, building, place, vessel or boat, and generally for the preservation of the public health,

the maintenance of cleanliness, and the prevention of contagion and infection.

3. The Wardens or any two of them may, by order in writing, cause any house, building, place, vessel or boat to be whitewashed, fumigated or otherwise purified, and may cause anything dangerous to the public health to be removed or destroyed.

4. If any Health Warden, upon being notified of his appointment, shall refuse to accept the office, or, when accepted, shall refuse to discharge the duties thereof, or to comply with any sanitary orders to him communicated, he shall forfeit twenty dollars, to be recovered in manner in the ninth section specified, and another shall be immediately appointed in his place; but no appointment of Health Warden shall continue for more than one year, nor shall any person be bound to serve as Health Warden oftener than once in four years.

5. Any Board of Health or Health Wardens, or, where none exist, any Justice may order to be removed from any dwelling-house or place, or from any vessel or boat approaching near to or within any place or port, any person sick with any contagious or infectious disease, to any hospital, house or place proper for that purpose, it being first certified by a medical practitioner that such removal is necessary for the public health. And if any person be sick with any infectious or contagious disease in any house or place, and such person cannot, in the opinion of such medical practitioner, be removed, then the Board or Health Wardens or Justice, as the case may be, may cause such house or place, or any contiguous house or place, to be vacated by other occupants for such time as the safety of the inhabitants shall require.

6. If any action shall be commenced against any person for any matter or thing done in pursuance or execution of this chapter, or of any order made by virtue hereof, the defendant in such action may plead the general issue and give this chapter and the special matter in evidence at any trial to be had thereupon, and that the same was done in pursuance and in the execution of this chapter; and no such action shall be brought against any person for any matter or thing done in pursuance of this chapter but within the space of three months after such matter or thing shall have been done.

7. The Governor in Council shall, amongst the general orders to be made under this and the last preceding chapter, adjudge and affix the punishment, penalties, and forfeitures that shall attach against any person or vessel, and the estate and effects of any person who shall

violate the provisions of this chapter, or of any general or particular regulations or orders to be made thereunder.

8. Where the punishment prescribed shall involve imprisonment, or the penalty or forfeiture shall be of a sum or thing exceeding in value fifty dollars, the party subject or liable may be deemed guilty of a misdemeanor, and may be tried therefor, and if convicted, punished at the discretion of the Court, by fine or imprisonment, or both, instead of by the mode hereafter prescribed.

9. In any case of such violation, the offender may be tried in a summary way before any Justice in this island, at the suit of the Queen, or of any person entitled to prosecute under any general or particular order as aforesaid, and upon conviction shall be committed to prison, where imprisonment shall be the penalty, and where a penalty or forfeiture shall be imposed, with or without imprisonment, the amount of such penalty or forfeiture, together with costs, may be levied by warrant of distress under the hand of any Justice, or the offender may be detained in custody or committed to prison (where imprisonment is not part of the sentence) until such penalty or forfeiture be paid: Provided that such detention or imprisonment shall not exceed three months; and further, that no proceeding had or done by a Justice under this chapter shall be set aside by *certiorari* or otherwise, for want of or for matter of form, nor shall any offender be relieved therefrom, nor shall any action lie therefor, if such proceedings, had they been regular, shall be found to have been justified by the facts. Nothing herein contained shall prevent any person being sued for a penalty or forfeiture in an action in the Supreme Court.

10. Forfeitures and penalties shall be applied as any general or particular regulation or order, to be made by the Governor in Council, may prescribe.

11. In the absence of the Governor from the seat of Government, the Executive Council shall have and exercise all powers vested in the Governor in Council under this and the last preceding chapter.

CHAPTER 70.

OF PREVENTING THE SPREAD OF SMALL-POX.

SECTION

- 1—Power of Governor in Council; vaccination compulsory.
 2—Power of vaccinator in cases of refusal to be vaccinated; fine to go to the Receiver General.

SECTION

- 3—After conviction and refusal, power given to Justice of the Peace, &c.
 4—Vaccinator, how remunerated, and amount.
 5—Further powers of Governor in Council.

1. The Governor in Council may put in force by his proclamation the provisions of this chapter, and for such purpose may direct the district surgeons of St. John's, and such persons as he may appoint vaccinators for other parts of this island and its dependencies, to carry out the provisions of this chapter, to make enquiries as to such persons as have not been effectively vaccinated; or who have not already had small pox, and require them to be vaccinated; or in case of children to require their parents, or person having the charge or support of them, to submit such children for vaccination.

2. In case of the refusal of any person so called on, the vaccinator may summon such person, or in case of children the parents or persons aforesaid, before a Justice, and in a summary way sue, and if necessary recover by distress, a fine not exceeding two dollars for such refusal, unless the person so summoned can show satisfactory cause as regards the health of such person or child why such should not be vaccinated, or should be exempted under the provisions of this chapter, the burden of proof being with the person so summoned; the said fine shall go to the Receiver General for the use of the colony and the purposes of this chapter.

3. A party convicted under this chapter may be ordered by a Justice to submit such person or child to vaccination within a specified time, and in case of refusal, the party so refusing shall be guilty of a second offence under this chapter, and may be proceeded against as hereinbefore provided, and so on for each refusal to obey such order.

4. On the production of a detailed statement, giving the name of each person vaccinated, sworn to by the vaccinator before and certified by a Magistrate, such vaccinator shall be entitled to receive remuneration from the colony at the rate of twenty-five cents for each person on whom the operation has been successfully performed.

5. The Governor in Council may make regulations for the more effectual execution of this chapter, and such regulations shall have the same force as if embodied herein.

CHAPTER 71.

OF NUISANCES.

SECTION

- 1—Penalty for throwing dung, &c., on gratings or before dwelling houses.
- 2—Throwing dead cattle, &c., into streets.
- 3—Night soil, &c., to be carried through town in tight cars.
- 4—Magistrates to enter premises where noxious substances are suspected.
- 5—Courts of session may in certain cases make orders for the prevention of nuisances.
- 6—Orders of session to have force of law.
- 7—Cattle not to be slaughtered within town.

SECTION

- 8—Burnt or dangerous buildings may be declared nuisance.
- 9—Buildings resorted to for prostitution, &c., nuisance.
- 10—Penalty for keeping such houses.
- 11—Such use of premises by tenant to avoid lease, &c.
- 12—Penalty on landlord for letting buildings for purposes of prostitution, &c.
- 13— } Proceedings as regards disorderly per-
- 14— } sons.
- 15—Penalties, how recovered.

1. Any person who shall cast or throw any dirt, dung, rubbish or any other offensive matter, in or upon the gratings in any city, town or settlement in this island, and any person who shall deposit or cause to be deposited before his dwelling house, store or other building, any dung, dirt, rubbish or any other offensive matter, shall be liable to a penalty not exceeding ten dollars.

2. Any person who shall cast or throw, or order to be cast or thrown, into any of the public coves, streets, lanes, squares, or passages in any of the said towns, any dirt, dung, rubbish, dead or dying cattle, or any putrid or offensive matter, shall for every offence forfeit and pay a penalty not exceeding twenty-five dollars.

3. Any person who shall bring into or carry through the streets, lanes or passages of any city, town, or settlement in this island any putrid substance, manure, night soil, or other offensive matter whatsoever, unless the same be carried in carts, puncheons or barrels, tight, close and covered, shall be liable to a penalty not exceeding ten dollars.

4. The stipendiary Magistrates may open and enter, or may direct the inspector of police or a constable to enter and inspect private places, where noxious substances dangerous to the public health may be rea-

sonably suspected to exist, and shall order all nuisances and filth to be removed therefrom or destroyed; and if the same shall not be removed or destroyed within twenty-four hours after such order, the person neglecting or refusing to obey such order shall be liable to a penalty not exceeding twenty dollars, or the Magistrate may, in his discretion, cause the same to be removed or destroyed, and may recover the expense of so doing, in a summary manner, in the name of the Clerk of the Peace or constable inspecting from the person so offending.

5. The Courts of session in this colony, within their jurisdiction, may make orders for the prevention of nuisances dangerous to personal safety, or affecting public health, other than those mentioned in this chapter; such orders to be confirmed and approved of by the Governor in Council, and published in the *Royal Gazette*.

6. The orders of session mentioned in the foregoing section, when confirmed and published, shall at such time as may be appointed by minute of Council have the same force and effect as if by this chapter specially enacted, under such penalties as may be prescribed by the said orders, and recoverable in the same manner as hereinafter provided for the recovery of penalties.

7. No person shall kill, slaughter, scald or dress any animal for meat in any street, square, lane or passage, in any city, town or settlement in this colony, or in any building within the same, except with the permission of a stipendiary Magistrate, under a penalty not exceeding twenty dollars.

8. A stipendiary Magistrate may, after due notice in writing to the proprietor of any burnt, dilapidated or dangerous building, or his agent, and a hearing of the matter, adjudge the same to be a nuisance in the neighbourhood, or dangerous, and shall make an order prescribing such disposition, alteration or regulation thereof as the said Magistrate may deem necessary; and if the said proprietor shall fail to comply with such order, he shall be liable to a penalty not exceeding fifty dollars; or the Magistrate may, in his discretion, cause the said nuisance to be removed or destroyed, and may recover the expense of so doing in a summary manner in the name of the Clerk of the Peace or a constable from the person so offending.

9. All buildings, places or tenements resorted to for prostitution, lewdness or illegal gaming, shall be deemed common nuisances.

10. Whoever keeps or maintains such common nuisances shall be liable to a penalty not exceeding one hundred dollars, or to be imprisoned in the nearest gaol for a period not exceeding three months.

11. If a tenant or occupant under lawful title of any building or tenement uses such premises, or any part thereof, for any of the purposes enumerated in the ninth section, such use shall annul or make void the lease or other title under which he holds, and, without any act of the proprietor, shall cause the right of possession to revert and vest in such proprietor, who may, without process of law, make immediate entry upon the premises, or he may avail himself of the remedy provided by law for the more speedy recovery of tenements.

12. Whoever knowingly lets a building or tenement, owned by him or under his control, to be used for any purpose mentioned in section nine, or after due notice of any such use omits to take all reasonable measures to eject therefrom the persons occupying the same as soon as it can be lawfully done, shall be deemed guilty of aiding in the maintenance of such nuisance, and punished by fine not exceeding one hundred dollars, or imprisonment in the nearest gaol for a period not exceeding three months.

13. Any stipendiary Magistrate may condemn all loose and disorderly persons convicted before him, on his own view, or by their own confession, or on the oath of one or more credible witnesses, to pay immediately, or within such period of time as he thinks fit, a fine not exceeding twenty dollars.

14. Persons openly exposing or exhibiting in any street, road, public place or highway any indecent exhibition, or openly and indecently exposing their persons; persons loitering in the streets or highways and obstructing passengers, using any lewd or insulting language, or in any other way annoying passengers, tearing down or defacing signs, breaking windows, breaking doors or door-plates or knockers, or the walls of houses, yards or gardens, destroying fences, causing a disturbance or noise in the streets or highways, by screaming or shouting; also all common prostitutes or night-walkers, wandering in the fields, public streets or highways, not giving a satisfactory account of themselves shall be deemed loose and disorderly persons, within the meaning of this chapter, and shall be subject to the penalty mentioned in the thirteenth section.

15. Penalties and forfeitures imposed by this chapter, and not otherwise provided for, shall be recovered in a summary manner by the order and adjudication of any one stipendiary Justice, resident in the district or town in which the offence shall be committed, on complaint to him for that purpose exhibited and proved, and such Justice is hereby authorised to summon before him any witness and to examine

such witness on oath. All such penalties and forfeitures may be levied, as well as the costs of such proceedings in case of non-payment, by distress and sale of the goods and chattels of the offender by warrant under the hand and seal of such Justice, or the said offender may be committed to prison for a period not exceeding three months.

TITLE XIX.

Of Aliens.

CHAPTER 72.

OF THE NATURALIZATION OF ALIENS.

SECTION

1—Governor may issue letters patent naturalizing aliens resident in this colony.

SECTION

2—Aliens on being naturalized to take oath of allegiance.

3—Judge's certificate.

1. The Governor, on the application of any alien resident in the colony, may issue letters patent under the great seal of this island naturalizing such alien, who shall thereupon become and be entitled to all the rights, privileges and immunities, and subject to all the liabilities of a natural born subject of her Majesty within the limits of this colony.

2. Every alien receiving letters of naturalization shall, within ten days thereafter, take and subscribe in duplicate before a Judge of the Supreme Court or Justice the oath of allegiance, one copy of which oath shall be filed in the office of the Colonial Secretary, and the other in the office of the Chief Clerk and Registrar of the Supreme Court.

3. The Judge or Justice administering such oath shall, if required, certify the same under his hand on such letters of naturalization, which certificate shall be evidence of its contents.

TITLE XX. Of Statistical Information.

CHAPTER 73.

OF THE CENSUS, ETC.

SECTION

- 1—Governor to subdivide districts and appoint persons to take census.
- 2—Duties of persons appointed.
- 3—Magistrate in each district to revise returns.
- 4—Copy of the schedule to be furnished to

SECTION

- the resident senior clergyman of each denomination.
- 5—Certified returns to be filed in Colonial Secretary's office.
- 6—Penalty for false returns.
- 7—When census to be taken.
- 8—Expenses to be paid by warrant.

1. For the purposes of this chapter the Governor in Council shall subdivide this colony and its dependencies into so many divisions as may be deemed expedient, and appoint persons to take the census and other statistical information by this chapter required within the said divisions; and every person so appointed shall discharge the duties required of him in such division to which he shall be appointed, as may be prescribed by the Governor in Council, and shall, before entering on the duties of his office, be sworn before one of her Majesty's Justices to the faithful discharge of the same, and shall, while engaged therein, conform in all respects to all orders and directions of the Governor in Council made in conformity with the provisions of this chapter.

2. Every person appointed shall make a return, with respect to the division or place to which he may have been appointed, of the information particularized in the schedule to and by this chapter, and such return shall be compiled within such periods as are hereinafter provided; and for the purpose of such compilation and return, every person so appointed shall, within his division, visit every house and enter into and upon any lands, tenements, or otherwise as he shall judge expedient for the execution of this chapter, and ask all such questions of the persons within the division for which he may be appointed, respecting themselves, the number and the quality of the persons constituting their respective families, and all other matters required to be

stated concerning them in the said answers and returns ; and every adult person refusing to answer any such questions, shall, for such refusal or for making a false answer forfeit a sum not exceeding eight dollars, to be recovered with costs in a summary manner before any one of her Majesty's Justices within the district in which the offence shall be committed ; and in default of payment, such Justice shall commit the offender to gaol for any period not exceeding two days.

3. The Governor may appoint one or more stipendiary or honorary Magistrates in each of the several divisions aforesaid to examine and review the returns of the persons so to be appointed ; and in any portion of this colony or its dependencies, where there is no resident Magistrate, may appoint some other person for that purpose ; and persons shall on such examination and review answer upon oath all such questions as may be put to them by the Magistrate or other person ; and if, upon such examination and review, it shall appear to the said Magistrate or other person, that any such returns are imperfect, defective or erroneous, the examining Magistrate or other person may examine witnesses, and direct the person presenting the same to amend such defect, error or imperfection, previous to such returns being certified as hereinafter mentioned.

4. Every person appointed to take the census in any division of the respective places of the island and its dependencies shall, at least ten days preceding the day on which such examination and revision shall be holden, furnish to the senior clergyman or minister of each religious denomination who shall reside within such division a copy of the schedule, as filled up by him, for such division, and also a notice of the time and place of holding such examination and revision : Provided that in any division or place where there shall not be any resident clergyman or minister, a copy of the schedule so filled up shall be furnished at least ten days preceding the day on which such examination and revision shall be holden to such person as shall be appointed by the bishop or principal of such religious denomination to receive the same.

5. On being satisfied of the correctness of any such return as aforesaid, the examining Magistrate or other person appointed shall certify under his hand that such return is, to the best of his knowledge and belief, correct ; and such certificate shall, together with the said return, be filed in the office of the Colonial Secretary by the person who shall have compiled such return, by a day in that behalf to be appointed by the Governor in such directions as aforesaid ; and such returns

shall be reduced into order under the direction of the Colonial Secretary, or by some officer in his department, and an abstract thereof shall be laid before the Legislature at its next session.

6. If any person so appointed shall wilfully compile or make a return false in any of the particulars required, such person shall forfeit a sum not exceeding two hundred dollars, to be recovered in any Court of Record; and in default of payment shall be subject to imprisonment for any period not exceeding six months, and shall further forfeit all compensation for his service.

7. The general census and returns under this chapter shall be taken and made between the months of June and December in the year one thousand eight hundred and seventy nine, and in at least every tenth year thereafter, and oftener if a previous appropriation be made for such purpose by the Legislature, and the taking of every census shall so far as practicable be simultaneous. The tables to be issued by the Governor in Council shall be in the forms contained in the schedule of questions annexed hereto, with such alterations and additions as the Governor in Council shall deem expedient.

8. The remuneration to the several persons to be appointed, and the expenses incurred for other purposes in carrying into effect the provisions of this chapter, shall be payable by warrant on the Receiver General.

SCHEDULE OF QUESTIONS.

BUILDINGS.

- | | |
|-----------------------------------|----------------------|
| 1. How many inhabited houses | } and where situate. |
| 2. By how many families inhabited | |
| 3. Houses now building. | |
| 4. Uninhabited houses. | |
| 5. Stores, barns and outhouses. | |
| 6. Fishing rooms in actual use. | |

INHABITANTS OF VARIOUS AGES.

- | | |
|--|--------------------------|
| 7. Number of males under 7 years of age. | } names, and where born. |
| 8. " females under 7. | |
| 9. " males from 7 to 14. | |
| 10. " females from 7 to 14. | |
| 11. " males from 14 to 20. | |
| 12. " females from 14 to 20. | |
| 13. " males from 20 to 30. | |
| 14. " females from 20 to 30. | |
| 15. " males from 30 to 40. | |

- | | |
|---|-----------------------------|
| 16. Number of females from 30 to 40. | } names, and where
born. |
| 17. " males from 40 to 50. | |
| 18. " females from 40 to 50. | |
| 19. " males above 50 to 70. | |
| 20. " females above 50 to 70. | |
| 21. " males and females from 70
upwards. | |

MARRIED.

22. Number of married persons.

WIDOWERS.

23. Number of widowers.

WIDOWS, &c.

24. Number of widows and orphans.

PAUPERS.

25. Number of cripples, aged and disabled paupers.

DEAF AND DUMB.

26. Number of males, deaf and dumb.

27. Number of females, deaf and dumb.

BLIND.

28. Number of males blind.

29. Number of females blind.

LUNATICS.

30. Number of male lunatics.

31. Number of female lunatics.

IDIOTS.

32. Number of male idiots.

33. Number of female idiots.

INDIANS.

34. Number of male Indians, including children.

35. Number of female Indians, including children.

COLORED PERSONS.

36. Number of colored males, including children.

37. Number of colored females, including children.

BIRTHS, DEATHS AND MARRIAGES.

38. Number of births the preceding year.

39. " deaths the preceding year.

40. " marriages the preceding year.

NUMBER ENGAGED IN VARIOUS PROFESSIONS.

41. Number of clergymen or ministers.
42. " doctors and lawyers.
43. " farmers.
44. " mechanics.
45. " merchants and traders.
46. Number of persons engaged in catching and curing fish.
47. " persons engaged in lumbering.

CHURCHES AND SCHOOLS AND PUPILS.

48. Number of churches and places of worship of each denomination.
49. " schools in each district.
50. " children attending school.

NUMBER OF VARIOUS RELIGIOUS DENOMINATIONS.

51. Number of Church of England.
52. " Roman Catholics.
53. " Kirk of Scotland.
54. " Free Church.
55. " Baptists.
56. " Wesleyan Methodists.
57. " Congregationalists.
58. " other denominations.

IMPROVED LANDS.

59. Number of acres of cultivated land and average value.
60. " acres of other improved land.

AGRICULTURAL PRODUCTS.

61. Number of tons of hay cut.
62. " bushels of wheat raised.
63. " bushels of barley raised.
64. " bushels of rye raised.
65. " bushels of oats raised.
66. " barrels of potatoes raised.
67. " barrels of turnips raised.
68. " barrels of other root crops.
69. Quantity of timothy and clover seed raised.

AGRICULTURAL STOCK.

70. Number of neat cattle.
71. " milch cows.
72. " horses.
73. Number of sheep.
74. " swine and goats.

FISHERIES.

75. Number of vessels engaged in the seal or other fisheries, and men on board.

76. Amount of tonnage engaged in the fisheries.
77. Number of large boats engaged in fisheries, and men on board ;
from 4 to 15 quintals ; 15 to 30 ; 30 and upwards.
78. Number of nets and seines.
79. Quantity of codfish cured.
80. " salmon caught and cured.
81. " mackerel caught and cured.
82. " herring cured.
83. " and value of other fish cured, distinguishing each
kind.
84. " and value of fish and oil, distinguishing each kind.
85. " seals.
86. Number of seal nets.
87. " cod seines.
88. " herring nets and seines.
89. " caplin seines.

MILLS AND FACTORIES.

90. Number and value of saw mills, and number of hands employed.
91. " grist mills, and number of hands employed.
92. " tanneries, and number of hands employed.
93. " foundries, and number of hands employed.
94. " weaving and carding establishments, and
number of hands employed.
95. " breweries and distilleries, and number of
hands employed.
96. " hand looms.
97. " factories other than the above, and num-
ber of hands employed.

ARTICLES MANUFACTURED.

98. Number of yards of fulled cloth manufactured last year.
99. " yards of cloth not fulled.
100. " yards of flannel.
101. Value of boots and shoes manufactured.
102. " leather manufactured.
103. " candles manufactured.
104. " soap manufactured.
105. " agricultural implements manufactured.
106. " chairs and cabinet wares manufactured.
107. " carriages manufactured.
108. " wooden ware other than the above, manufactured.
109. " iron castings manufactured.
110. Quantity of coals and other minerals raised, specifying each kind.
111. " iron smelted, and value.
112. Number of gallons of malt liquor manufactured.
113. " gallons of distilled liquor manufactured.
114. Bushels of lime burnt, and value.
115. Quantity of bricks manufactured, and value.

116. Tons and value of gypsum quarried.
117. Quantity of butter manufactured.
118. " cheese manufactured.
119. Number of vessels built, and tonnage.
120. " boats built.
121. " and value of slates quarried and manufactured.
122. Value of imports into and exports from Newfoundland.
123. Value of imports into and exports from Labrador.
124. Number of vessels and tonnage owned in this colony.
125. Number of able-bodied fishermen and seamen in this colony and its dependencies.

TITLE XXI.

Of Education.

CHAPTER 74.

OF BOARDS OF EDUCATION, GRANT, EDUCATIONAL DISTRICTS, ETC.,

SECTION

- 1—Protestant Boards.
- 2—Roman Catholic Boards.
- 3—Vacancies in Boards, how filled up.
- 4—Boards of Education to make by-laws, rules, &c. Quorum.
- 5—Annual and general meetings of Boards. Chairman to transmit returns to the Governor.
- 6—Where meetings to be held.
- 7—School houses, &c., to vest in Boards. Action to be in the name of the chairman.
- 8—Scale of fees. Fees, how collected, &c.
- 9—School Boards in one district may assist Boards in other districts.
- 10—Course of instruction.
- 11—Religious instruction.
- 12—Boards may nominate persons to visit schools in certain cases.
- 13—Inspectors of schools, duties, &c.
- 14—Inspectors to visit common Board schools once each year and procure reports. Salary of inspectors.
- 15—Grant for repair of school houses, and for books, &c.
- 16—Inhabitants of district to contribute.
- 17—Training of teachers.
- 18—Regulations respecting training of teachers.
- 19—Chairman may sue on teacher's bond. Bonds obligatory on minors.
- 20—General education grant.
- 21—Grant for commercial schools. Repairs of schools, &c.
- 22—Governor may in certain cases apply

SECTION

- commercial school grants to Board school purposes.
- 23—Protestant Educational districts defined.
- 24—Roman Catholic Educational districts defined.
- 25—Convent schools.
- 26—Orphan Asylum, Presentation Convent and St. Patrick's free schools.
- 27—Colonial and Continental Church Society schools.
- 28—Wesleyan schools.
- 29—Carbonear schools.
- 30—Governor may appoint commissioners.
- 31—Building, &c., to belong to the Government.
- 32—Harbor Grace Grammar school. Governor to appoint Board of Commissioners.
- 33—Vacancies, how filled.
- 34—Quorum. Powers, &c., of the Board.
- 35—Branches taught in the school.
- 36—Master's salary.
- 37—Report and register books to be kept in the schools.
- 38—Annual report to be made.
- 39—Governor to be visitor.
- 40—Moneys, how paid.
- 41—Academies.
- 42—Constitution of Boards of Directors. Quorum, &c.
- 43—Power and duties of Boards. Fees. Bye-laws, &c.
- 44—Governor to approve of bye-laws.
- 45—Boards to make annual report.
- 46—Governor to be visitor.
- 47—Amounts to be paid to several academies.

BOARDS OF EDUCATION.

PROTESTANT BOARDS.

1. There shall be Protestant Boards of Education, to be appointed

by the Governor in Council for each of the following educational districts, which shall consist of five or seven members of the several Protestant churches, one of whom shall be the senior clergyman of the said churches actually resident or officiating in such district, to be a Protestant Board of Education for such district, that is to say : In St. John's, Brigus, Port-de-Grave, Bay Roberts, Harbor Grace, Carbonear, Bay-de-Verds, Trinity south, west, north and east, Bonavista, south, west and north, Fogo, Morton's harbor and Twillingate, Ferryland, Placentia west, Burin, Grand Bank, Lamaline, Fortune Bay, Burgeo and LaPoile. In St. John's such Board shall consist of nine or more members, of whom a majority shall be members of the Church of England, and as nearly as may be of the same proportion to the members of the Board as the number of the members of that church bear to the number of the Protestant inhabitants in that district ; and in other places the majority of the Board shall be of the same persuasion as the majority of the inhabitants, according to the latest census : Provided that it shall not be necessary to appoint a Protestant Board in any district where the amount herein appropriated for such district shall be less than one hundred and twenty dollars, but in every such case, the Governor in Council may authorize the Protestant Board most contiguous to such district to expend the sum appropriated for such district in such educational purposes as shall be most for the advantage of the same.

ROMAN CATHOLIC BOARDS OF EDUCATION.

2. There shall be Roman Catholic Boards of Education, to be appointed by the Governor in Council in each of the following educational districts, which shall consist of five or seven members of the Roman Catholic Church, to be a Roman Catholic Board of Education for such district, in which Board shall be included the senior superior clergyman of the said church actually resident or officiating within such district, that is to say : In St. John's, Harbor Main, Brigus, Harbor Grace, Carbonear, Trinity Bay south, west and north, Bonavista south and north, Fogo, Twillingate, Bay Bulls, Ferryland, Trepassey, St. Mary's, Great Placentia, Little Placentia, Placentia west, Burin, Fortune Bay, and Burgeo and LaPoile : Provided that it shall not be necessary to appoint a Roman Catholic Board in any district where the amount hereinafter appropriated to the Roman Catholic part of the district shall be less than one hundred and twenty dollars, but in such case the Roman Catholic Board most contiguous to the said district may expend the sum appropriated for such district in such educational

purposes as shall be most for the advantage of the same. Any of the Roman Catholic Boards may appropriate any of their surplus funds in the support or establishment of any Roman Catholic schools in the said island where the same may be required. And it shall only be necessary to appoint one Board for the districts of Harbor Grace, Carbonear, Bay-de-Verds and Trinity south and west, of which the Catholic bishop of Harbor Grace shall be chairman.

BOARDS GENERALLY.

3. Whenever any vacancy shall occur in any of the said Boards by the death, resignation or absence from the colony for twelve months of any member thereof, the Governor in Council may appoint a person to fill such vacancy.

4. Such Boards of Education shall have power to make bye-laws, rules and regulations for the establishment and management of schools within their respective districts, and for the appropriation of the respective sums of money herein or hereafter granted for such Boards : Provided that three at least of the members of any Board shall be present at the transaction of any business by the said Board. No bye-laws, rules or regulations shall be of effect until the same shall have received the approval of the Governor in Council.

5. The annual meeting of each Board of Education shall be held on the first Wednesday in July in each year, for the purpose of choosing a chairman and other officers, of auditing accounts, and of transacting such other business as may then be necessary ; and the chairman of each Board shall, as soon thereafter as may be, transmit to the Governor a correct return of the number and positions of schools and date of establishment, the names of teachers, salary paid to each, the number, names, and ages of scholars, the branches taught them, the books they have used, and their progress in education, the hours of teaching and fees received ; which return shall be accompanied by a detailed account of the expenditure of the Board for the past year ; and any Board neglecting to transmit such returns, according to the forms to be furnished from the office of the Colonial Secretary, on or before the last day of October following the annual meeting, shall not receive further payments until such default shall be remedied.

6. The annual and general meetings of the said Boards shall be holden at the following places, that is to say : At the town of St. John's, for the district of St. John's ; at Harbor Main, for the district of Harbor Main ; at Brigus, for the district of Brigus ; at Bay Roberts, for the district of Bay Roberts ; at Port de Grave, for the district of

Port de Grave ; at Harbor Grace, for the district of Harbor Grace ; at Carbonear, for the district of Carbonear ; at Black Head, for the district of Bay de Verds ; at Old Perlican, for the district of Trinity Bay south ; at Trinity, for the district of Trinity Bay north ; at Heart's Content, for the district of Trinity Bay west ; at Catalina, for the district of Trinity Bay east ; at Bonavista, for the district of Bonavista south ; at King's Cove, for the district of Bonavista west ; at Greenspond, for the district of Bonavista north ; at Fogo, for the district of Fogo ; at Twillingate, for the district of Twillingate ; at Morton's Harbor, for the district of Morton's Harbor ; at Bay Bulls, for the district of Bay Bulls ; at Ferryland, for the district of Ferryland ; at St. Mary's, for the district of St. Mary's ; at Great Placentia, for the district of Great Placentia ; at Little Placentia, for the district of Little Placentia ; at St. Kyran's, for the district of Placentia west ; at Burin, for the district of Burin ; at Grand Bank, for the district of Grand Bank ; at Lamaline, for the district of Lamaline ; at Harbor Briton, for the district of Fortune Bay ; at LaPoile, for the district of Burgeo and LaPoile : Provided that the Protestant Board for the district of Placentia shall meet at Harbor Buffett ; and that general meetings of the said Boards of Education may be held at any time, on the requisition to the chairman of any two or more members ; or in case of the chairman refusing or neglecting to call such meetings within three days after such requisition being delivered to him, or left at his house, then such meetings may be called by such requisitionists.

7. The school-houses and property of Boards not herein otherwise provided for shall vest in and become the property of their respective successors under this chapter ; and in any case where it shall be necessary to prosecute or defend any action at law or suit in equity on behalf of the Board, the same may be brought or defended in the name of the chairman.

8. The following scale of fees shall be paid half-yearly in advance to the master by the pupils attending the several schools established under the provisions of this chapter, that is to say : each child learning the alphabet, fifty cents per year ; each child learning to write and cypher shall pay at the rate of one dollar per year ; each child learning other and higher branches of education shall pay at the rate of one dollar and fifty cents per year ; each scholar learning navigation shall pay an additional fee at the rate of two dollars per year. If the fees be not paid to the master, he may recover the same by action in a summary manner before any Justice, either in his own name or in the

name of the Board, or any master may, with the consent of the Board or the chairman thereof, issue a warrant of distraint under his hand, directed to any constable or other person, and distrain the goods and chattels of the parent of any child for the amount of fees in arrear for any such child, without action, and sell the same after three days' notice; but any Justice near the locality may, on application and good cause shewn, restore the property distrained, if the fees should not be due, or make such order as may be just: Provided that nothing herein contained shall be construed to prevent the chairman of the Board from remitting the said fees, or any part thereof, to such persons as are or may be unable from poverty to pay the same. Each master shall make an annual return to the Board of the amount of fees received by him.

9. Any of the said Boards of Education may appropriate such portions of the funds by this chapter placed at their disposal as they may be enabled so to do, towards the support of any one or more of the schools that may stand most in need thereof, and which any such Board may deem deserving of support: Provided that such school shall be subject to inspection and furnish reports similar to other schools supported under this chapter.

10. The following branches shall be taught in the said several schools, viz.: reading, writing, arithmetic, English grammar, and, where required, geography, history and navigation; and also such industrial employment as may be directed by the said Boards.

11. No teacher in any of the said schools shall impart to any child attending the same any religious instruction which may be objected to by the parent or guardian of such child.

12. Where any Board school is held at a distance from the residence of the chairman or members of the Board, the Board may nominate any one or more persons residing near the school to visit and superintend the same, subject to the order of the Board and the terms of this chapter.

INSPECTORS OF SCHOOLS.

13. The Governor in Council may appoint two competent inspectors, one a Roman Catholic and the other a Protestant, to inspect all schools of their respective denominations receiving aid from Government, and the said inspectors shall at least once in each year visit each school of their respective denomination; and remain in the locality where each school is situated at least one day, so as to enable them fully to report

on the condition of the said school. Each of the said inspectors shall be sworn before a Justice well and faithfully to discharge the duties of his office, and they shall make annual reports of their proceedings to the Governor, to be laid before the Legislature at the opening of each session thereof.

14. The said inspectors shall each year inspect the several common Board schools within the electoral districts of this island, and procure an annual or half-yearly report on the condition of such schools, the number of scholars in attendance, the branches of education they are taught, their proficiency, the qualifications of the teachers, the state of the school-houses, the amount of Government allowance and tuition fees received by each teacher, and a return from each School Board of the amount of education funds received and expended by such Board, with such other information as may be useful in relation to such schools, according to such instructions as may be given by the Governor in Council. Each of the said inspectors shall receive the sum of nine hundred and twenty-four dollars annually, including all traveling expenses and other expenses attendant on their said inspection.

REPAIRS OF SCHOOL HOUSES.

15. The Governor in Council may authorize the annual expenditure in fair proportions between Protestant and Catholic schools of the sum of nine hundred and twenty-four dollars above the sum hereinbefore granted to be appropriated by the said local Boards in the erection and repair of school houses, in providing suitable books, maps, and school furniture therefor: Provided that the said books, maps, and school furniture shall be sold at a remunerating rate by the said respective Boards to the said several schools, and that such Boards shall annually account for the proceeds thereof to the Governor in Council.

16. No grant shall be made for school houses unless the inhabitants of the locality requiring the same shall contribute an equal amount in money or kind for that purpose, and no grants shall be made for school houses where the legal title to the site thereof shall not be vested in the Board for the district in which such site is situated.

TRAINING OF TEACHERS.

17. For the purpose of training teachers, there shall be annually appropriated a sum of three thousand four hundred and eighty dollars out of the education grant; whereof one thousand eight hundred and fifty-six dollars shall be paid for training teachers for Protestant schools, and one thousand six hundred and twenty-four dollars for training

teachers for Catholic schools in this island; the annual sum of one hundred and fifteen dollars and thirty-eight cents shall be paid, out of the sum of three thousand four hundred and eighty dollars for the board, lodging, and training, of any scholar while so being trained; no more than two such scholars from any one electoral district shall be paid for at the same time; and the selection of such scholars shall be made by the respective Protestant and Catholic Boards of Education of such district, according to such regulations as they shall adopt for that purpose, with the approval of the Governor in Council, and which regulations shall prescribe the manner of selecting such scholars, and of obtaining security that they will become and continue teachers in any such districts for a special period under some one of such Boards.

18. Any Protestant scholar selected and recommended to be trained as a teacher by the Protestant Board of Education of any electoral district according to such regulations, may be instructed, boarded and lodged, in the Church of England academy, the principal school of the Colonial and Continental Church Society in this island, or in the Wesleyan training school in St. John's or in the general Protestant academy, as the Boards appointing and selecting such scholars shall decide. And any Catholic scholar selected and recommended to be trained as a teacher by the Catholic Board of Education of any electoral district, may be instructed, boarded and lodged in the Roman Catholic academy in St. John's; and the sum hereinbefore granted for training, boarding and lodging any such scholar shall be paid to the superior, principal, or secretary of any such academy or school, upon his certifying that such scholar has been in regular attendance and receiving instruction under his charge during the period for which payment is sought.

19. The chairman for the time being of any Board to which any bond shall have been given by and on behalf of a pupil teacher, shall have power to sue thereon, in his own name, without assignment, by virtue of his office; and the same shall be obligatory as well upon pupil teachers who shall be minors, as upon those who may be of full age at the time of executing the same.

EDUCATIONAL GRANTS.

20. There shall be annually appropriated the sum of fifty-three thousand four hundred and thirty-seven dollars and forty-four cents for general educational purposes, which sum of money shall be apportion-

ed according to population between Protestants and Catholics, and shall be distributed amongst and paid to the respective Boards of Education of each denomination, according to the population of their respective districts as ascertained by the last preceding census, except as herein otherwise directed.

21. In addition to the sums granted by the preceding section there shall be appropriated and paid the following sums, namely: a sum not exceeding one thousand eight hundred dollars annually, in places out of St. John's where there are not means for the support of schools within or without any of the educational districts, in furtherance of education, to be apportioned according to the population of the several religious denominations in the colony, and under such rules and regulations as regards returns and expenditure as the Governor in Council shall prescribe; for academies, eight thousand three hundred and fifty-four dollars; and for commercial schools five thousand and thirty-one dollars and eleven cents, to be apportioned as follows:

To the Commercial School at	St. John's (for Presbyterians)	\$184.62
"	Bay Bulls.....	184.62
"	Harbor Main	230.77
"	Brigus in Conception Bay.....	230.77
"	Brigus	115.38
"	River Head, Harbor Grace.....	230.77
"	Ferryland	230.77
"	St. Mary's	184.62
"	Great Placentia	184.62
"	Burin (Roman Catholic school)	138.46
"	Burin (Church of England schools).....	92.31
"	Burin (Wesleyan schools)	92.31
"	Burgeo	115.33
"	LaPoile	115.44
"	King's Cove.....	230.77
"	Trinity.....	230.77
"	Bonavista.....	230.77
"	Twillingate and Fogo.....	230.77
"	Old Perlican	92.31
"	Heart's Content	92.31
"	Shoal Point and Upper Island Cove	230.77
"	Oderin	138.46
"	Tilton and Fortune Harbors...	138.46
"	Seldom-Come-By (Protestant)	92.31

To the Commercial School at Musgrave Harbor and Doting Cove, to be expended by the Protestant Board of Education for Fogo, unless the Governor in Council shall otherwise order (Protestant)	138.46
" Cupids, (Wesleyan).....	92.31
" Bay Roberts	277.00
" Bay-de-Verds (Catholic).....	231.00
" Carbonear	23.08
" Bay-de-Verds (Protestant).....	230.77

22. The Governor in Council may, upon the application of the Boards of Education in any educational district, apply the moneys granted by this chapter for the support of a commercial school in such district to the support of Board schools therein.

PROTESTANT EDUCATIONAL DISTRICTS.

23. The Protestant educational districts shall be as follows :

That of St. John's shall consist of the present electoral districts of St. John's, and that part of the district of Harbor Main lying between Horse Cove and Indian Pond inclusive.

That of Brigus shall consist of and include all that part of the electoral district of Brigus lying between south side of Northern Gut in Port-de-Grave, Salmon Cove and Indian Pond, exclusive.

That of Port-de-Grave shall consist of and include all that part of the educational district of Port-de-Grave north of Northern Gut in Port-de-Grave Salmon Cove.

That of Bay Roberts shall consist of and include the town and settlement of Bay Roberts and Coley's Point, as defined and included in the electoral district of Harbor Grace.

That of Harbor Grace shall consist of and include all that part of the electoral district of Harbor Grace lying between the south point of Mosquito and the north point of Bay Roberts.

That of Carbonear shall consist of and include all that part of the electoral district of Carbonear lying between the south point of Mosquito and Perry's Cove.

That of Bay-de-Verds shall consist of and include all that part of the electoral district of Bay-de-Verds lying between Perry's Cove and Split Point.

That of Trinity Bay south shall consist of and include all that part of the electoral district of Trinity lying between Split Point and Sugar Loaf Head.

That of Trinity Bay west shall consist of and include all that part of the electoral district of Trinity Bay lying between Sugar Loaf Head and West Head of Random.

That of Trinity Bay north shall consist of and include all that part of the electoral district of Trinity Bay from West Head of Random to Catalina South Head inclusive.

That of Trinity Bay east shall consist of and include all that part of the electoral district of Trinity Bay from Catalina South Head to Bird Island Cove inclusive.

That of Bonavista south shall consist of and include all that part of the electoral district of Trinity and Bonavista lying between Bird Island Cove and Upper Amherst Cove inclusive.

That of Bonavista west shall extend from Upper Amherst Cove to Salvage inclusive.

That of Bonavista north shall consist of and include all that part of the electoral district of Bonavista from Salvage to Cape Freels, including Flat Island and all islands within said limits.

That of Fogo shall consist of and include all that part of the electoral district of Fogo from Cape Freels to Muddy Hole and Change Islands inclusive, including the island of Fogo and all other islands within said limits.

That of Twillingate shall consist of and include all that part of the electoral district of Fogo lying between Change Islands and Marrett's Harbor, including the island of Twillingate and the islands within said limits.

That of Morton's Harbor from Marrett's Harbor to Cape John.

That of Bay Bulls shall consist of and include all that part of the electoral district of Ferryland lying between the South Head of Petty Harbor and the LaManche River.

That of Ferryland shall consist of and include all that part of the electoral district of Ferryland lying between LaManche River and Cape Race.

That of St. Mary's shall consist of and include all that part of the electoral district of Placentia and St. Mary's lying between Cape Race and Bickford, inclusive.

That of Placentia shall consist of and include all that part of the electoral district of Placentia and St. Mary's lying between Branch and Rashoon, Branch included.

That of Burin shall consist of and include all that part of the electoral district of Burin from Rashoon to Little St. Lawrence inclusive.

That of Lamaline shall extend from Little St. Lawrence to Point May.

That of Grand Bank shall extend from Point May to Great Garnish.

That of Fortune Bay shall consist of and include all the present electoral district of Fortune Bay.

That of Burgeo shall extend from Bonne Bay to Wreck Island inclusive.

That of LaPoile shall extend from Wreck Island to Cape Ray.

ROMAN CATHOLIC EDUCATIONAL DISTRICTS.

24. The Roman Catholic educational districts shall be as follows :

That of St. John's shall be the present electoral districts of St. John's, and extend to Indian Pond.

That of Harbor Main shall extend from Indian Pond to Colliers, both inclusive, and shall also include English Cove and James Cove.

That of Brigus shall extend from Colliers, English Cove and James Cove, exclusive, to Spaniard's Bay bridge, including Bay Roberts.

That of Harbor Grace shall consist of and include all that part of the electoral district of Harbor Grace lying between the south point of Mosquito and Spaniard's Bay bridge.

That of Carbonear shall consist of and include all that part of the electoral districts of Carbonear and Bay-de-Verds lying between the south point of Mosquito and Split Point.

That of Trinity Bay south shall consist of and include all that part of the electoral district of Trinity lying between Split Point and Sugar Loaf Head.

That of Trinity Bay west shall consist of and include all that part of the electoral district of Trinity Bay lying between Sugar Loaf Head and Careless Harbor.

That of Trinity Bay north shall consist of and include all that part of the electoral district of Trinity Bay from Careless Harbor inclusive to Cape Bonavista.

That of Bonavista south shall consist of and include all that part of the electoral district of Bonavista lying between Cape Bonavista and Salvage, inclusive.

That of Bonavista north shall consist of and include all that part of the electoral district of Bonavista lying between Salvage and Cape Freels, including all islands within the said limits.

That of Fogo shall consist of and include all that part of the electoral district of Fogo lying between Cape Freels and Change Islands

inclusive, including the island of Fogo and all other islands within the said limits.

That of Twillingate shall consist of and include all that part of the electoral district of Fogo lying between Change Islands and Cape St. John, including the island of Twillingate and all islands within the said limits.

That of Bay Bulls shall consist of and include all that part of the electoral district of Ferryland lying between the South Head of Petty Harbor and LaManche River.

That of Ferryland shall consist of and include all that part of the electoral district of Ferryland lying between LaManche River and Cape Race.

That of Trepassey shall consist of and include all that part of the electoral district of Placentia and St. Mary's lying between Cape Race and Holyrood exclusive.

That of St. Mary's shall consist of and include all that part of the electoral district of Placentia and St. Mary's lying between Holyrood inclusive and Cape Dog.

That of Great Placentia shall consist of and include all that part of the electoral district of Placentia and St. Mary's lying between Bickford and First Beach and Freshwater, both inclusive.

That of Little Placentia shall extend from First Beach and Freshwater to Haystack, including Red Island, Ram's Island and Ragged Island, and exclusive of Dog Harbor and Brewley.

That of Placentia west shall extend from Haystack to Burnt Island, including Dog Harbor and Brewley, Isle of Valen, Merasheen, and the other islands on the western shore within the said limits.

That of Burin shall consist of and have the same limits as the present electoral district of Burin, and extending to Burnt Island exclusive, including Oderin and Flat Islands.

That of Fortune Bay shall be the electoral district of Fortune Bay.

That of Burgeo and LaPoile shall be the electoral district of Burgeo and LaPoile.

APPROPRIATION FOR CONVENT SCHOOLS.

25. There shall be paid annually out of the Roman Catholic educational grant to the Roman Catholic bishop of St. John's the sum of two thousand and fifty-three dollars and eighty-four cents for the support of the Presentation and other convent schools as under:

ST. JOHN'S.

For the convent school at Harbor Main..... \$346.15

For the convent school at Renews	346.15
“ Ferryland	207.69
“ Witless Bay	230.77
“ Placentia	230.77
“ Brigus	230.77
“ Burin.....	230.77
“ St. Mary's	230.77
	<hr/>
	\$2,053.84

And also the sum of eleven hundred and fifty-three dollars and eighty-four cents out of the said Roman Catholic grant to be paid to the Roman Catholic bishop of Harbor Grace, to be expended for the support of the Presentation and other convent schools in his diocese as under :

HARBOR GRACE.

For the convent school at Harbor Grace	\$461.54
“ Carbonear.....	461.54
Other convent schools in the diocese of Harbor Grace	230.76
	<hr/>
	\$1,153.84

ORPHAN ASYLUM, PRESENTATION CONVENT, ST. PATRICK'S FREE SCHOOL,
AND TOPSAIL SCHOOLS.

26. There shall be appropriated annually by the Roman Catholic Board of St. John's the sum of six hundred and ninety-two dollars and thirty cents, to the support of the Orphan Asylum school, and the sum of one thousand three hundred and eighty-four dollars and sixty-two cents per annum to the support of the Presentation Convent schools in the district of St. John's out of the sum hereinbefore appropriated to said district; the Roman Catholic Board for the district of Harbor Grace shall appropriate the sum of four hundred and sixty-one dollars and fifty-four cents annually to the support of the St. Patrick's free school in said district out of the amount hereinbefore appropriated to said district, which said sums of money shall be paid quarterly by warrant of the Governor to the respective Roman Catholic bishops of the dioceses of St. John's and of Harbor Grace, or the committees of management having charge of said schools, upon the production of certificates that such schools have been in active operation for the period for which the respective amounts are payable; also the sum of two hundred and thirty dollars and seventy-seven cents shall be paid out of the general Catholic grant for the support of Catholic schools in Kelligrews and Topsail.

COLONIAL AND CONTINENTAL CHURCH SOCIETY'S SCHOOLS.

27. There shall be annually paid to the Colonial and Continental Church Society the sum of two thousand three hundred and seven dollars and seventy cents out of the amount appropriated to the Protestant Board of Education, for the support of the Society's schools within the following districts, and in the following sums :

For the support of a school in St. John's, three hundred and forty-six dollars and seventeen cents.

For a school in Brigus, one hundred and fifteen dollars and thirty-eight cents.

Harbor Grace, two hundred and thirty dollars and seventy-seven cents.

Port-de-Grave, two hundred and thirty dollars and seventy-seven cents.

Trinity west, one hundred and thirty-eight dollars and forty-six cents.

*Trinity north, two hundred and seventy-six dollars and ninety-two cents.

Bonavista south, one hundred and sixty-one dollars and fifty-four cents.

Bonavista north, one hundred and eighty-four dollars and sixty-two cents.

Fogo, one hundred and fifteen dollars and thirty-eight cents.

Twillingate, two hundred and seventy-six dollars and ninety-two cents.

Fortune Bay, two hundred and thirty dollars and seventy-seven cents.

Which said several sums of money shall be paid quarterly to the President of the Corresponding Committee, or other person duly authorized to receive the same, on the production of a certificate that a school or schools has or have been in operation in each of the said districts under the direction of the said Society, and for the period for which the amount is payable.

And in case the said Society shall at any time withdraw its school or schools from either of said districts, the amount hereinbefore mentioned as payable to the Society for the support of a school in said district shall be paid in such case to the Protestant Board of Education for such districts.

WESLEYAN SCHOOLS.

28. The following sums shall be paid by the Protestant Boards of

Education in the following districts out of the sums hereinbefore appropriated to them towards the support of the Wesleyan Methodist schools therein, that is to say :

St. John's.....	\$115.38
Brigus.....	115.38
Port-de-Grave.....	115.38
Carbonear.....	461.54
Trinity south.....	115.38
Trinity east.....	115.38
Burin.....	115.38
Bay-de-Verds.....	231.76.
	<hr/>
	\$1,385.58

The said sums of money shall be paid annually in quarterly payments by warrant of the Governor to the chairman of the Wesleyan Methodist mission at St. John's, upon the production of a certificate that a school or schools has or have been in operation, under the management of the Wesleyan Methodists in such districts respectively, for the period for which the amount is payable.

CARBONEAR SCHOOLS.

29. The sum of one thousand two hundred dollars each year shall be apportioned among the several denominations in the district of Carbonear towards the support of schools therein, that is to say: six hundred dollars among the Protestants according to population, and six hundred dollars to the Roman Catholics.

30. The Governor in Council shall, if expedient, appoint commissioners for the management of such schools, and prescribe rules and regulations for returns connected with any of the said schools, and the expenditure of the amounts aforesaid.

31. The building used for the Carbonear grammar school, with all the land and appurtenances connected therewith, and chattels belonging thereto, shall be the property of the Government, to be appropriated to such public purposes as the Governor in Council shall determine.

HARBOR GRACE GRAMMAR SCHOOL.

32. The Governor in Council may, by warrant, appoint seven persons to be a board of commissioners for the management of the Harbor Grace grammar school; and such board shall be a body corporate and politic, by the name of "The Commissioners of the Harbor Grace Grammar school," and shall have a common seal, with full power to make, alter, and change the same, and shall have perpetual succession, and full

power to sue and be sued, implead and be impleaded, answer and be answered unto, in all Courts and places of jurisdiction within this island, and to take, hold and convey all lands, moneys and chattels, and to do and execute all such other matters as to such board, as such body politic and corporate, shall appertain.

33. When a vacancy shall occur in the number of the said board, by the death, resignation, or absence from the colony for twelve months of any member, the Governor in Council may fill up such vacancy.

34. Of the said board of commissioners, five shall be a quorum; and the said board shall have authority to appoint a master, and if necessary an usher or assistant teacher, to the said school, and the same, upon reasonable cause, to remove; to fix the salary of such usher or assistant teacher, to prescribe the various branches of learning other than those hereinafter enumerated to be taught by the said teachers, to appoint the times and hours of attendance at the said school, to establish the rates of fees to be paid by the pupils attending the same, and to appropriate the said fees to the purposes of this chapter, and to make such rules and bye-laws for the regulation of their own proceedings and of such matters connected with the management of the said school as are not herein otherwise provided for, which rules and bye-laws shall be submitted to the Governor in Council for approval or amendment.

35. The following branches of learning shall be taught in the said school, that is to say: the classics, mathematics, and navigation; and no books or treatises shall be used in the said school other than such as shall have received the approval and allowance of the said Board of Commissioners.

36. The sum of nine hundred and twenty-four dollars shall be annually granted out of the public funds of the colony as a salary to the master of the said school.

37. There shall be kept in the said school a report and a register book, in the former of which shall be entered the remarks and observations of the commissioners and visitor of the said school, with the names and number of the pupils attending from day to day at the several classes therein; in the latter, the names, ages, and places of residence of the several pupils; the dates of their admission respectively; the courses of education entered upon, and the progress made by them respectively, and the date of the withdrawal of each pupil.

38. The said Board shall, before the meeting of the Legislature, in each year, transmit to the Colonial Secretary, to be laid before the

Legislature, a report of the progress and condition of the said school, which report shall, among other matters, contain a statement of the several branches of education taught in the said school, and of the books used in the same; of the classes into which the said school is divided, and the number of pupils attending in each class, together with an account of the amount and appropriation of all fees which, during the time included in the said report, have been paid by the pupils.

39. The Governor shall be visitor of the said school.

40. The sums of money mentioned in this chapter shall be paid quarterly by the Receiver General in discharge of such warrants as may from time to time be issued by the Governor in favor of any person, to be applied for the purposes of this chapter.

ACADEMIES.

41. There shall be established in St. John's a Church of England academy, a Roman Catholic academy, a Wesleyan academy, and a general Protestant academy.

42. The Board of Directors for each of the said several academies shall consist of five members, three of whom shall form a quorum, except the Board of the general Protestant academy, which shall consist of six members, two to be selected from the Church of Scotland, two from the Free St. Andrew's Church, and two from the Congregational Church. The said Boards shall respectively be bodies corporate and politic by the respective names of the Directors of the Church of England academy, the Directors of the Roman Catholic academy, the Directors of the Wesleyan academy, and the Directors of the general Protestant academy, and shall each have a common seal, with full power to make, alter and change the same, and shall have perpetual succession, and full power to sue and be sued, implead and be impleaded, answer and be answered unto in all Courts and places of jurisdiction within this island, and to take, hold and convey all lands, moneys and chattels, and to do and execute all such other matters and things as to each of the said Boards, as such body corporate and politic, shall appertain to do. The directors of the Church of England, of the Roman Catholic and of the Wesleyan academies shall be members of these churches respectively.

43. Each of the Boards of Directors shall have the power to appoint masters of their respective denominations for their respective academies, to prescribe the various branches of learning to be taught, and the terms and vacations to be kept in the said academies, to fix the

rates of fees to be paid by the students, and to appropriate such fees either towards increasing the salaries of the said masters, or towards defraying the incidental expenses of their respective academies; and also to make such bye-laws and rules for regulating their own proceedings, and for the efficient management of their respective academies, as may be necessary.

44. No bye-law or rule shall be in force unless approved of by the Governor in Council.

45. The said Boards of Directors shall, on or before the tenth day of January in each year, transmit to the Colonial Secretary a report of the progress and condition of their respective academies to be laid before the Legislature.

46. The Governor shall be visitor of the said academies.

47. The following sums shall be annually paid to the chairmen of the respective Boards of Directors, viz: one thousand eight hundred and forty-six dollars and twenty cents towards defraying the salaries of Church of England masters of the Church of England academy; two thousand seven hundred and sixty-nine dollars and thirty cents towards defraying the salaries of the Roman Catholic masters of the Roman Catholic academy; nine hundred and twenty-three dollars and eight cents towards defraying the salaries of the Wesleyan academy; and six hundred and ninety-two dollars and thirty-four cents towards defraying the salaries of the masters of the general Protestant academy; which salaries shall be paid quarterly by warrant of the Governor in favor of the chairman of the several Boards of the respective academies, upon the production of a certificate from the chairman of the said Boards of Directors that the masters of the said academies have been actually engaged in the duties of their respective appointments.

TITLE XXII.

Of Highways, Roads, &c.

CHAPTER 75.

OF ROADS.

SECTION

- 1—Road money in St. John's to be expended by Board of Works. In outports by Road Boards.
- 2—Road work to be done by tender.
- 3—Work may be given out in small lots.
- 4—Security to be given. False declaration perjury.
- 5—New lines to be surveyed.
- 6—Compensation for land taken, how made.
- 7—Surplus moneys may be used on any other roads.
- 8—Width of roads, &c.
- 9—Chairman of Board of Works to be Supervisor General of roads.
- 10—Limits of districts.
- 11—Notice of action.
- 12—Tender of amends.

SECTION

- 13—Commissioners and others may pay money into Court.
- 14—Certificate of performance of contract to be given.
- 15—Governor may increase Boards and members.
- 16—Governor may subdivide districts.
- 17—Government may erect dwellings on main lines, &c.
- 18—Ten per cent of road grants allowed to meet expenses.
- 19—Repairs of bridges in certain cases.
- 20—Penalty for damaging public bridges.
- 21—Encroachments on roads. Penalty for.
- 22—Removal of obstructions from roads.
- 23—Penalty for digging up, &c., roads.

1. All sums of money appropriated or to be appropriated for the making or repairs of local roads shall in the several outport electoral districts of this island be applied and expended by the respective Boards of Road Commissioners appointed or to be appointed by the Governor in Council, (except in all such cases as are otherwise provided for); and for main lines and local roads in the electoral district of St. John's shall be applied and expended therein for the purposes of this chapter by the Board of Works; and all such moneys shall be expended in the manner hereinafter provided.

2. The said Boards shall not proceed in the construction, repair or improvement of any road, street or bridge, otherwise than by tender or contract or by auction to the lowest bidder in such allotments as may be marked off after a careful examination by the Boards or under their inspectors; and in all such cases of letting by auction, such Boards shall put up a sufficient number of notices, not less than ten days previous to such sale, in three or more of the public places in the

neighborhood where the work is to be done ; which notice shall specify and describe the work to be performed, and also the place, day and time when and where the same will be let by auction as aforesaid ; and the inspectors of the Boards shall attend at the time and place so appointed, and then let, to the lowest bidder, such allotments ; and the purchaser shall immediately thereafter enter into written contracts with sufficient sureties for the faithful performance of the work, in time and manner set forth in such contracts : Provided that the Governor in Council may authorise the expenditure of such moneys in the employment of daily or time labor.

3. The Boards may divide and apportion the work to be performed on any road, street or bridge, into small contracts or allotments, to meet the exigencies of the people of the several districts.

4. The Boards, before entering into any such contracts, shall take security as is hereinbefore provided for the due performance of the same, and upon the production of a certificate from the Board of one half of the amount of work contracted for being completed, such contractor shall be entitled to receive half part of the amount of his contract ; and such Boards shall so frame their contracts that the same be finished within a limited time, and payment of one-third of the full amount thereof shall always be withheld until the work contracted for shall appear, by the solemn declaration in writing of the inspector or surveyor of such Boards, specifying the particulars and measurement of such work, to have been fully completed, examined and passed, agreeably to contract ; and every such inspector or surveyor who shall knowingly make a false declaration shall be subject to the same punishment in law as in case of wilful perjury

5. Previously to any sum of money being expended in opening or making any new road, the proposed line of road shall be first surveyed by or under the direction of the respective Boards, and approved by them.

6. Whenever it shall become necessary for the opening, making or widening any road, street or other work, to appropriate any piece or parcel of land, being private property, the Board of Works, or any other road board shall pay out of such moneys as shall be at their disposal for the purpose of making such roads, streets or other work, a fair and reasonable compensation to every person having any interest in the land so intended to be appropriated, and also compensate any person for any damage which may be occasioned to his property by the making, opening or widening such roads, streets or other works ;

and if the said Board and the owner of such property cannot agree upon the amount of compensation, such amount shall be ascertained by the chairman of such Board, and two other assessors, one of whom shall be nominated by the said Board, and the other by the owner of the land, and who shall assess and award the amount of compensation (if any) that shall be paid for the value of the said land and for damage occasioned, together with all reasonable costs, which award shall be final; and if the owner of the land shall neglect to nominate an assessor within five days after being thereto required, the chairman of such Board shall nominate an assessor on behalf of the owner; and the chairman and the two assessors shall be paid a sum of two dollars each for their services in that behalf: Provided that every such award shall be made in writing, within ten days after any day that may be appointed for the hearing of the case; but before payment or tender to the parties interested of the sum awarded for compensation, the said Boards, or any person authorised by them, may enter into and upon and take possession of any land so to be appropriated for any road, street or lane as aforesaid.

7. In all cases where any sums of money appropriated by the Legislature to any road, street or bridge, shall be found to be more than sufficient for making, constructing or repairing the same, the said Boards shall appropriate and apply such surplus money to the making, constructing or repairing any other road, street or bridge within the district for which such money shall have been granted: Provided that when any sum of money granted for any particular part of any main road shall be found more than sufficient for the purpose of such grant, the surplus thereof shall be expended on such other parts of the same line of road within the district, as may require repair.

8. No road shall be gravelled to a greater width than seven feet, or shall have a base of less width from drain to drain than fourteen feet, when such road shall be situated more than five miles from St. John's, or four miles from Harbor Grace, Carbonear or Brigus, respectively; and when any land within thirty-three feet of the centre of any road now laid out remains unappropriated, and where any land within thirty-three feet of the centre of any road hereafter to be laid out shall, at the time of any such road being laid out, be unappropriated, such land shall not be granted, conveyed or appropriated to any private purpose. All main lines of roads hereafter to be opened shall be one hundred feet wide.

9. The Chairman of the Board of Works shall be Supervisor General of all roads, streets and bridges ; and all orders for the payment of moneys from the said Boards shall be certified by the Financial Secretary before payment, so as to confine the expenditure within the respective appropriations. The Chairman of the Board of Works or his officers shall inspect outport road work, and make yearly report thereon, and estimate the probable amount yet required ; and the chairman of each Board within the respective districts shall, on or before the first day of December in each year, and oftener if required, transmit to the Supervisor General correct statements of all works done and moneys paid on such roads, streets and bridges as may be within his said district, together with an estimate of the probable amount which may be necessary to complete the same ; and such returns shall be reduced into order by the said Supervisor General ; and a consolidated printed report thereof shall be by him laid before the Governor in Council and furnished to the Legislature within ten days after the opening of the next session thereof.

10. For the purposes of this chapter, the district of St. John's shall include all roads, streets and bridges within the electoral district of St. John's, and also the main road between St. John's and the Goulds ; the district of Conception Bay, all roads, streets and bridges within the electoral district of Conception Bay, including Holyrood ; the district of Trinity Bay south, all roads, streets and bridges within the electoral district of Trinity Bay, from Dildo Cove to Split Point ; the district of Trinity Bay north, all roads, streets and bridges from Bonaventure to and in Ragged Harbor ; Trinity Bay east to continue from Ragged Harbor to, in and about Bird Island Cove ; the district of Bonavista, all roads, streets and bridges within the electoral district of Bonavista ; the district of Fogo, all roads, streets and bridges within the electoral district of Fogo ; the district of Burin, all roads, streets and bridges within the electoral district of Burin ; the district of Fortune Bay, all roads, streets and bridges within the electoral district of Fortune Bay ; the district of Burgeo and LaPoile, all roads, streets and bridges within the electoral district of Burgeo and LaPoile ; the district of Placentia and St. Mary's, all roads, streets and bridges within the electoral district of Placentia and St. Mary's ; and the district of Ferryland, all roads, streets and bridges within the electoral district of Ferryland south of the Goulds and inclusive thereof.

11. No action shall be commenced against any Board, commissioners, surveyors, contractors or other person, for anything done by them or

him in pursuance of the provisions of this chapter, until one month after notice in writing shall have been delivered to them or him, or left at their or his usual place of abode by the party who intends to institute such action, his attorney or agent, in which notice shall be clearly and explicitly contained the cause of action, the name and place of abode of the person who is to bring the same, and the name and place of abode of his attorney or agent.

12. Any such Board, commissioners, surveyors, contractors and other persons may, at any time within one month after such notice shall have been given, tender amends to the party complaining, or to his agent or attorney; and in case such amends be not accepted, or in case no tender has been made, plead the general issue to any action to be hereafter brought, and give such tender or any other special matter in evidence; and if the plaintiff in any such action shall not, at the trial thereof, recover a verdict for more than the amount of such tender, the defendant in such action shall be entitled to his costs of suit, and to the like remedy for the recovery thereof, as though a verdict had passed against the plaintiff.

13. If in any case such Board, commissioners, surveyors, contractors or other persons, shall neglect to tender any amends, or shall have tendered insufficient amends before action brought, they or he may, by leave of the Court wherein such action shall be brought, or of a Judge of the Supreme Court, at any time before the trial thereof, pay into Court such money as they shall see fit; whereupon such proceedings, orders and judgments shall be had, made or given to and by such Court or Judge as in other actions where the defendant is allowed to pay money into Court.

14. Within six days after any contractor for any road, street or bridge shall have given notice to any Board, surveyor or inspector, in the district where such road, street or bridge may be situated, of the completion of his contract therein, such surveyor or inspector shall inspect such road, street or bridge, and if the contract be completed, forthwith grant a certificate accordingly; and the chairman of the said respective Boards shall, on receiving such certificate, grant a negotiable order under his hand to the contractor, to receive payment by warrant of the Governor on the Receiver General.

15. The Governor in Council may increase the number of the said Boards and the members thereof, when necessary.

16. The Governor in Council may sub-divide the several districts of the island for the purpose of the appointment of road Boards therein,

and for expenditure of moneys that may be granted within their respective limits.

17. The Governor in Council may enter into any arrangements for the construction of suitable dwellings on such parts of main lines of roads as may be found most suitable for location, and for letting out the said roads by annual contract for the repairs thereof: Provided that the cost of the erection of such dwellings shall be deducted from the sum appropriated for the said main roads.

18. The Governor in Council may appropriate a sum not exceeding in the whole ten per cent upon the amount granted in any act of the Legislature for making, repairing and improving roads, streets and bridges, towards defraying all expenses attendant upon the expenditure of such amount, that is to say: the expenses of surveying, inspecting and overseeing, the remuneration of chairmen, secretaries, and all other necessary officers, printing, stationery and postage.

19. If at any time during the intervals between the meetings of the Legislature, any bridge should require repairs or renewal, and no vote of the Legislature be available for such purpose, the Governor in Council may authorize and direct the repairs or renewal of such bridge, and charge the expense necessarily incurred for such service against any moneys that may be thereafter appropriated by the Legislature for road service in the district or for the road on which such bridge may be situated.

20. Whoever shall damage any public road, street or bridge may be prosecuted summarily before any Justice, and on conviction shall be subject to a penalty not exceeding twenty-five dollars, or to imprisonment for a term not exceeding two months: Provided that this section shall not be construed to exempt any offender from being otherwise punished by the criminal law in operation in this colony when not convicted under this section.

21. Any person who, after being duly notified by the Chairman of the Board of Works or by the chairman of any road Board, shall wilfully continue to encroach on or obstruct, or shall again encroach on or obstruct any of the public roads, streets, highways or bridges, or any crown or other lands lawfully reserved for roads, streets or highways, may be summoned before any stipendiary Magistrate or two or more Justices, who shall decide in a summary way a complaint in the name of the Chairmap of the Board of Works or of the chairman of any road Board, of such encroachment; and on being satisfied by proof thereof may adjudge the offender to pay a penalty not exceed-

ing twenty dollars, together with costs and expenses of removal of any fence or other obstruction, which may be levied by distress and sale of the offender's goods and chattels; and such fence or other obstruction or encroachment may be removed either by order of such Justice or under the provisions of the following section.

22. The Board of Works or any road Board, or the chairman of either of the said Boards within the respective districts, may cause to be removed any fence or other obstruction placed or erected or being an encroachment in or upon any public road, street or highway: Provided that neither this nor the twenty-first section shall apply to a case of disputed right of way over private property.

23. Any person who shall excavate, dig up, remove or carry away any portion of any road, street or highway, without the consent, in St. John's, of the Chairman of the Board of Works, and in the other districts without the consent of the chairmen of the respective road Boards, shall forfeit and pay a fine not exceeding twenty dollars for each offence, to be recovered in a summary manner before any stipendiary Justice, and by distress and sale of the offender's goods and chattels; and in default of any sufficient distress being found, such offender shall be imprisoned for any term not exceeding fourteen days.

CHAPTER 76.

OF FERRIES.

SECTION

- 1—Governor may establish ferries.
- 2—Courts of Sessions may make rules for ferries, &c.
- 3—Justices may suspend ferrymen in certain cases.

SECTION

- 4—Provision in case of ferry boat being taken away or injured.
- 5—Penalties, how recovered.

1. The Governor in Council may establish such ferries over straits, rivers, bays, harbors and creeks within the colony as may be provided by the Legislature, and appoint persons to serve as ferrymen under such rules and for such fees, to be paid by the parties using such ferries, as may be prescribed and settled in the manner hereinafter provided; and any person who shall accept the place and duty of ferryman, and shall refuse or neglect to comply with and observe the several

articles, rules and clauses contained in the rules and regulations prescribed for his guidance in that behalf, shall forfeit a sum not exceeding eight dollars.

2. The Court of Sessions nearest to the place where any ferry shall be established may frame rules for the management thereof, and fix a rate of fees to be paid for the transit of passengers, animals, vehicles and articles of any description thereat: Provided that such rules and rates respectively shall be subject to the approval of the Governor in Council before the same shall be put into operation.

3. On complaint being made to the Justices in sessions of any improper conduct or neglect of duty on the part of any ferryman over whom they shall have jurisdiction, such as in the opinion of the Justices to require the suspension and dismissal of such ferryman, the Justices shall take the deposition of the party complaining, or of any other person, with respect to the subject matter of such complaint, and transmit the same to the Colonial Secretary with their report thereon, and may in the meantime suspend such ferryman and appoint some other person to perform his duties until the decision of the Governor in Council upon the matters aforesaid shall have been received.

4. On complaint on oath being made to any Justice near where any ferry shall have been established, of any person having wilfully and maliciously taken away, damaged or destroyed the boat of the ferryman at such place, such Justice shall issue his warrant for the apprehension of the offender, and upon hearing the parties, make such order for the restoration of such boat, and for the reparation of any damage done to the same, as in that behalf may be just; and in the event of a refusal to comply with such order, shall imprison the party refusing obedience thereto for any time not exceeding thirty days.

5. All penalties imposed by this chapter may be sued for and recovered in a summary manner before any one of her Majesty's Justices, and shall be levied, together with costs, by warrant of distress on the goods and chattels of the party convicted.

CHAPTER 77.

OF PUBLIC WHARVES.

SECTION

1—Justices may make rules, &c., and affix fees, &c.

SECTION

2—Rules to be posted up near wharf.

1. The Justices in session, in the several districts of this colony, may make and establish rules and regulations for the control and management of public wharves within their several jurisdictions, and fix and establish fees and rates of wharfage and penalties for violation of same; and such rules and regulations, fees, rates and penalties, after being approved of by the Governor in Council, shall have the force and effect of law.

2. Such rules and regulations shall be kept posted up in some conspicuous place adjacent to the wharf for which the same shall be prescribed.

CHAPTER 78.

OF BANNERMAN PARK.

SECTION

1—Description and dedication of land.

2—Name of park. Supervision of park, &c.

3—Governor in Council to make rules, &c.
Punishment of offenders.

SECTION

4—The sum of \$80 per annum payable to Governor from crown lands rents.

1. All that parcel of land containing about twelve acres, shewn and described in a plan thereof deposited in the office of the Surveyor General, and situate in the rear of the town of St. John's, bounded south by the Military Road three hundred and sixty-one feet, more or less, and by the grounds of the Colonial Building one hundred and ninety feet, more or less; east by the said grounds of the Colonial Building three hundred and seventeen feet, more or less, and by Bannerman Road seven hundred and thirteen feet, more or less; north by the Circular Road four hundred and fifty-eight feet, more or less; and west by the property of Calver and others thirteen hundred and two

feet, more or less ; and all such adjoining lands as may at any time be procured by the Government for that purpose, shall be vested in her Majesty, and set apart, dedicated and appropriated for the sole use and purpose of a public park, for the use and accommodation of the inhabitants of St. John's, and of all others resorting to the same.

2. The said park, when opened and established, shall be named and known as Bannerman Park, and shall be under the control and supervision of the Surveyor General, in whose possession the same shall be held to be ; and such moneys as may be granted by the Legislature for that service shall be applied as the Governor in Council may direct, in protecting, improving and ornamenting the said park.

3. The Governor in Council may make rules for the regulation, use and management of the said park, for the preservation of the fences and other public property appertaining to the same, and for the maintenance of order and propriety therein ; and such rules shall be published by being printed and hung up in the said park ; and a violation of any such rules or orders shall subject the offender to expulsion and removal from the said park by the Surveyor General, or any one acting under his authority, or by a Peace officer, and to a fine not exceeding five dollars in addition to the cost of repairing any damage or injury caused to the said park or to the fences or other public property appertaining to the park by such offender, to be recovered with costs, in a summary manner, before any stipendiary Justice, by a suit to be brought in the name of the Surveyor General ; and every such offender who shall not, upon adjudication, pay such fine, may be imprisoned for any time not exceeding fourteen days.

4. When that lot of land, the private property of the Governor, and situate on the south side of the Circular road aforesaid, and containing about ten acres, shall have been added to the said park lands, there shall be paid to the Governor on the first day of January in each year thereafter, a sum of eighty dollars as the estimated annual value of the same. Such annual payments to be a charge on the rents of crown lands.

TITLE XXIII.

Municipal Regulations.

CHAPTER 79.

OF CERTAIN MUNICIPAL REGULATIONS.

SECTION

- 1—Penalty for improperly using sidewalks.
- 2—Depositing packages on side walks.
- 3—Penalty for depositing building materials in the streets ; one third of street allowed for building purposes.
- 4—Side walks to be kept free of snow. Penalty.
- 5—Pavement of side walks to be kept in repair. Surveyor General in case of neglect may repair at expense of owner or occupier.
- 6—Ballast not to be thrown into harbors.
- 7—Obstruction of public coves.
- 8—Sliding or skating down hills, in streets, throwing stones, playing games, &c.
- 9—Fencing building lots.
- 10—Penalty for neglect to fence.

SECTION

- 11—Mode of proceeding for recovery.
- 12—Dangerous chimneys. Justice's orders.
- 13—Unnecessary discharge of fire arms.
- 14—Mummers.
- 15—Furious driving, driving without reins, without bells on sleighs or catamarans. Obstructing streets, leaving animals standing, carriage of timber, &c.
- 16—Owners' names on carts.
- 17—Rule of the road.
- 18—Suffering stallions to be at large.
- 19—Cruelty to animals.
- 20—Swine found wandering to be impounded. Penalty. Forfeited, if charges not paid. Sale. Goats without yokes.
- 21—Fines and penalties, how recovered.

1. Any person who shall, in or upon any way used or appointed to be used as a footwalk or sidewalk in any city, town or settlement in this island, draw, drive, or carry any truck or sleigh or wheel-barrow or other vehicle whatsoever except directly across such footwalk or sidewalk on necessary occasions, or shall lead, ride, or drive on any such footwalk or sidewalk any beast except directly across the same, and on necessary occasions, or shall tie or fasten any horse or other beast, or shall suffer the same to stand on or across the said footwalk or sidewalk, shall for every offence forfeit and pay a sum not exceeding twenty-five dollars.

2. Any person who shall place or deposit on any sidewalk in any of the said places, except in transit, any boxes, barrels, packages, or any other matter or thing so as to obstruct free passage on the said sidewalk, shall, for every offence, forfeit and pay a sum not exceeding twenty-five dollars.

3. Any person who shall place or leave any materials for building,

such as mortar, lime, sand, bricks, stone or timber, or who shall sift or screen any lime in any of the said public streets, lanes, squares or passages without the permission of a stipendiary Magistrate, shall for every offence forfeit and pay a sum not exceeding twenty-five dollars: Provided, that any person building or repairing a house or other erection shall have the right to occupy one-third of the street in front of such building during the progress of such work, and provided that such place, so occupied, shall be enclosed with a sufficient fence.

4. Any person, whether occupier or owner, who shall fail in keeping the causeways or sidewalks free of snow and ice, to the extent of the breadth of such sidewalks and the surface drains adjoining the same opposite to his land, dwelling-house, stores, or other buildings, or shall throw any ice or snow in any of the streets, lanes or passages without levelling the same, shall be liable to a penalty not exceeding ten dollars.

5. Any person who shall not keep in good condition and repair the stone or plank pavement or causeway opposite to his land, dwelling-house, stores, or other buildings, shall for every offence forfeit and pay a penalty not exceeding twenty-five dollars; and the Chairman of the Board of Works may cause to be repaired and amended the said pavement or causeway, and shall thereupon be entitled to recover from the owner or occupier of such land, dwelling-house, store or other building, before any stipendiary Justice in a summary manner, the expenses incurred in such reparation and amendment, with costs of suit.

6. Any person who shall throw any stones or ballast, or anything else hurtful or injurious, into any harbor or roadstead in this colony or its dependencies, shall for every offence be liable to a penalty not exceeding forty dollars.

7. Any person who shall hereafter in any way encumber, make erections across or obstruct any of the public coves, or the waters thereof, shall be liable to a penalty not exceeding ten dollars: Provided, that this section shall not affect the rights of parties to have vessels or boats at wharves adjoining the public coves for the purpose of loading or discharging cargoes.

8. The stipendiary Magistrates and Justices in Quarter Sessions may make regulations for preventing persons from coasting, skating or sliding on slides or sledges down the hills or highways or streets, throwing stones in the said streets, or playing any games in such highways or other places calculated to inconvenience or annoy, and may impose a penalty not exceeding five dollars for each breach of such regulations.

The property of parents may be liable under distress for any penalty imposed on a minor, and the master of an apprentice paying any penalty herein shall be entitled to recover from the apprentice, or deduct from his wages, such penalty.

9. All building lots and improved and occupied lands fronting on any road, street, lane, or cove within this colony, and dangerous to passengers, or in other respects a nuisance, shall be protected and enclosed with a sufficient fence; and should any question arise as to the sufficiency of the fence required by this or the third section, the order of a stipendiary Magistrate thereon shall be final and binding on the owner or occupier of the lands to be protected and enclosed by such fence.

10. If the owner or occupier of any building lots, improved or occupied lands, shall neglect, after receiving notice, to protect and enclose the same with such fence, the Chairman of the Board of Works, or the chairman of the road Board in the district where such property is situated, may cause the same to be erected or repaired, and shall thereupon recover from such owner or occupier, before any Justice, in a summary manner, the expenses incurred in the erection or repairing of such fence, together with costs of suit.

11. In any action the Chairman of the Board of Works, or the chairman of the road Board, shall bring for such expenses and costs against any such owner or occupier of such building lots, improved or occupied lands, who shall be absent from this colony, service of a copy of the writ or summons in such case upon the agent of the owner, or on the occupier of such building lots, improved or occupied lands, shall be deemed sufficient service for the purposes of this chapter.

12. On information being given to any Justice of any building wherein there is any dangerous chimney, stove pipe or funnel, the said Justice shall direct a constable to proceed to the said building and examine the same; and if he shall report to the said Justice that any repairs, alteration or removal be necessary, the said Justice upon hearing the parties may make an order for such repairs, alteration or removal to be made; and if such order shall not be complied with, such Justice shall cause such removal or alteration to be made at the expense of the occupant or owner of the building. And if any person shall refuse admittance to such constable while acting under this section, or shall not make the removal or alteration so ordered, he shall for each offence forfeit and pay a penalty not exceeding twenty-five dollars, to be recovered together with the expenses of removal or alter-

ation in the name of such constable, and in default of payment the offender may be imprisoned for a period not exceeding ten days.

13. Any person firing any gun, pistol or other fire-arm, in any city, town or settlement in this island, for the purpose of creating a noise or disturbance, or without some necessary or reasonable excuse for so doing, shall, for every such offence, pay a penalty not exceeding twenty dollars.

14. Any person who shall be found at any season of the year in any city, town or settlement in this colony, dressed as a mummer, masked or otherwise disguised, shall be deemed a public nuisance, and may be arrested by any peace officer, without a warrant, and taken before any Justice in the district or place where such person may be found, and on conviction in a summary manner before such Justice, may be committed to gaol for a period not exceeding seven days, unless he shall pay a fine not exceeding five dollars.

15. Any person who shall use, ride or drive any horse or other animal in a furious or improper manner on any of the streets, squares, lanes or passages of any city, town or settlement in this island; or shall thereon drive or suffer to proceed any cart, carriage, slide or sleigh, without some person leading or guiding with reins the horse attached thereunto, and if a sleigh or slide with less than two good bells attached to the harness of such horse; or shall place or leave on any of such streets, squares, lanes or passages, in such manner as to obstruct or endanger the passage thereof, any horse or other beast or cart, carriage, waggon, sleigh or slide; or shall in any or on any cart, carriage, waggon, sleigh or slide, carry or convey any timber, iron or other articles in such a manner as to protrude two feet beyond the wheels of such cart, waggon or carriage, or, if a slide or sledge, beyond the bars thereof, shall for every offence forfeit and pay a penalty not exceeding twenty-five dollars.

16. All carts and waggons employed or used upon any of the public roads or streets of this island shall have the owner's name painted in full length on some conspicuous part thereof, in letters of not less size than two inches, and painted in white on a black ground, or black on a white ground, under a penalty not exceeding ten dollars.

17. All carriages, carts, waggons, catamarans, sleighs, and other vehicles shall, by the person in charge of the same, on meeting any other carriage, cart, waggon, catamaran, sleigh, or other vehicle, be conducted and kept on the left side of the road, so far as the state of the highways or roads will permit, and each person conducting such vehicle

shall give one-half of the said road to the other, under a penalty not exceeding ten dollars.

18. Any person who shall show or expose any stallion, kept for the purpose of being let to mares, except in such place as a Magistrate may appoint, or except in necessarily proceeding to or returning from such place, or who shall allow such stallion to go at large or astray, shall for every such offence forfeit and pay a penalty not exceeding fifty dollars.

19. Any person who shall cruelly beat, ill-treat, over-drive, over-load, abuse or torture, or cause or procure to be ill-treated, beaten, over-driven, or over-laden, or abused, or tortured, any animal, shall, for such offence, forfeit and pay a penalty not exceeding twenty-five dollars.

20. If any goats without a good substantial yoke, of which the lower bar shall be three feet, and the upper bar not less than eighteen inches in length, or any swine shall be found wandering or straying in or about any of the streets, squares, lanes or passages aforesaid, any person may impound said goats or swine in the nearest common pound, and the owner thereof, for every such goat or swine so found as aforesaid, shall forfeit and pay a sum not exceeding two dollars, together with the reasonable charges of impounding and keeping such goat or swine, and such goat or swine shall be detained until said penalty and charges shall be paid; and if the same be not paid within two days after such goat or swine shall be impounded, any stipendiary Justice, resident in the said locality, may declare such goat or swine forfeited, and on two days' notice in writing being given the same may be sold by order of the said Justice, and the expenses and penalty deducted from the proceeds of such sale: Provided, that in all towns or settlements in this island, except Harbor Grace and St. John's, swine with a yoke as aforesaid may be permitted by the stipendiary Magistrate to go at large.

21. Fines and penalties not otherwise provided for in this chapter shall be recovered in the manner and form prescribed in the last section of chapter seventy-one of these consolidated statutes, entitled "Of Nuisances."

CHAPTER 80.

REBUILDING OF ST. JOHN'S.

SECTION

- 1—Water street, &c., defined.
- 2—Where buildings of inflammable materials required.
- 3—Gower street defined.
- 4—LeMarchant road.
- 5, 6—Fire-breaks.
- 7—Authority to erect marks.
- 8—Plan of street already made to be preserved and be evidence.
- 9—Penalty for removal of marks.
- 10—No new road to be less than fifty feet wide. Buildings to be kept twenty-five feet from the centre of all lanes, &c.
- 11—Notice to be given of intention to build.
- 12—Buildings to be kept back from centre of certain streets.
- 13—Arbitrators, how appointed.
- 14—Buildings not to be removed at a "heavy expense."
- 15—Side paths to be ten feet wide.
- 16—Governor may alter streets.
- 17—Governor in Council may appropriate lands, &c., necessary for opening roads, &c.
- 18—Compensation for lands so taken, how made.
- 19—Party wall.

SECTION

- 20—Disputes as to such, how settled.
- 21—Penalty for non-compliance with directions relating thereto.
- 22—Parties building may use wall on adjoining ground on certain conditions.
- 23—Levels.
- 24—Copings, &c., allowed to project.
- 25—Tenants under certain circumstances to receive extended leases.
- 26—Compensation, how recovered.
- 27—No buildings allowed within certain limits, though no compensation made.
- 28—Penalty.
- 29—Roof ladder to be provided.
- 30—Door and window sills to be of stone.
- 31—External porches may be permitted by Governor.
- 32—Portions of streets may be granted.
- 33—Ground in front of, proprietor may be taken by him at a valuation.
- 34—Convictions.
- 35—Limits of town.
- 36—Alteration of road from Military road towards Upper Long Pond.
- 37—Provision for payment of compensation money.

1. Water street, in the town of St. John's, shall extend from the eastern side of Quidi Vidi fire-break on the east to Job's bridge on the west.

Duckworth street, in the said town, shall extend from Quidi Vidi fire-break aforesaid on the east to Williams's lane on the west.

New Gower street, in the said town, shall extend from the site of the late theatre to Flower Hill fire-break.

The street or fire-break commonly called George street shall be extended from Waldegrave street to Flower Hill fire-break on the west, and from Queen's street to Williams's lane on the east.

The said streets shall be of the respective widths and according to such lines and boundaries as now exist and have been laid down under the superintendence of any supervisor of streets regularly appointed; and in such part of any of the said streets where the lines

and boundaries have not been laid down under such authority, the Surveyor General shall determine such undefined lines and boundaries, which shall be laid down by him according to the provisions of this chapter.

2. No person shall build, erect or put up any building or erection other than such as shall be built of brick, stone or other uninflammable material, and roofed or covered with iron, slate, or other uninflammable material, in such parts of the said town as are hereinafter described, that is to say :

On the south side and to the southward of Duckworth street.

On the south side and to the southward of George street.

On the south side and to the southward of a line drawn parallel to and two hundred feet to the northward of the north side of that part of Water street which lies between Flower Hill fire-break and Job's bridge.

And all houses, buildings and erections of wood which, since the ninth day of June, in the year one thousand eight hundred and forty-six, have been already built, or which shall hereafter be built on the south side and to the southward of Duckworth street and George street aforesaid, respectively ; and all houses, buildings, and erections of wood which, since the thirty-first day of May, in the year one thousand eight hundred and fifty-one, have been already built, or which shall hereafter be built on the south side and to the southward of the said line drawn parallel to and two hundred feet to the northward of the north side of that part of Water street which lies between Flower Hill firebreak and Job's bridge as aforesaid, shall be public nuisances, and shall be abated as provided by this chapter : Provided, that nothing in this chapter shall operate to prevent any person occupying any fishing-room situate to the eastward of Woodley's cove or the westward of Newman and Company's premises from building of wood any house, store, stage, flake or other erection to be used by him or his servants employed by him exclusively for the purpose of carrying on the fishery upon such fishing-room.

3. Gower street shall extend from Cochrane Place on the eastward to the site of the late theatre on the westward, and shall be of a width of not less than fifty feet throughout the same, according to such lines and boundaries as have been laid down by the supervisor of streets and approved of by the Governor in Council ; or according to such lines and boundaries as may hereafter be laid down by the Surveyor General and approved of in the manner aforesaid.

4. A road shall be opened from the Freshwater road to the Gas Works fire-break as soon as arrangements shall be made with the several proprietors and tenants of the land through which such road shall run for the surrender of their respective interests therein to the Government for the purpose of such road; and the Surveyor General shall proceed, under direction of the Governor in Council, to lay out such road, which shall be of a width of not less than sixty feet, and shall be called the Le Marchant road.

5. The following cross streets or fire-breaks shall be of the respective widths and according to the lines and boundaries hereinafter prescribed for the same, that is to say:

CHURCH HILL FIRE-BREAK.—On the south side of Water street the said fire-break shall be eighty feet in width from the western side line thereof, as it existed on the eighth day of June in the year one thousand eight hundred and forty-six. From Water street to Duckworth street the eastern boundary of the said fire-break shall be a straight line, which, commencing at the south-eastern angle of a house lately in the occupancy of John Berrigan, situate on the north side of Water street, and erected on ground belonging to the estate of the late Thomas B. Studdy, shall thence, from the said angle, be produced northerly by the western side of the said house and land, and by ground belonging to the crown to Duckworth street. The western boundary of the said fire-break between the said streets shall be the eastern side of the Market House ground. From Duckworth street to Gower street the said fire-break shall be one hundred feet in width, from the western side line thereof as it existed on the eighth day of June in the year one thousand eight hundred and forty-six; and from Gower street to the Queen's road (or road in front of the Orphan Asylum school) the eastern boundary of the said fire-break shall be a line commencing at the south-west angle of a house lately in the occupancy of John Foley, (the said house being on the eastern side of a lane leading northerly by premises belonging to the estate of the late Martha Young, to the Queen's road,) and thence running in a straight line northerly two hundred and nineteen feet, more or less, to the north-west angle of a house lately in the occupancy of David Murphy, and thence to continue in the same straight line fifty-six feet, more or less, to the south side of the said Queen's road; and the western boundary line of the said fire-break, between the said Gower street and the said Queen's road, shall be a line drawn from a point on the north side of Gower street, seventy-eight feet from and to the westward of the south-west

angle of the said John Foley's house, to a point on the south side of the said Queen's road, eighty feet from and to the westward of the north-western angle of the said David Murphy's house ; and from the said Queen's road to the rear line of the town, the western side line of the continuation of the said fire-break shall be according to the line heretofore prescribed ; and a parallel line at the distance of eighty feet shall be the eastern side of the continuation of the said fire-break : Nothing herein contained shall be construed to affect the Church of England cathedral.

CODNER'S COVE FIRE-BREAK.—A line drawn from the harbor along the eastern wall of the house lately in the occupancy of Peter H. Carter & Co., situate on the south side of Water street, and the existing western line of Adelaide street, to New Gower street, shall form the western boundary ; and the eastern side of Codner's cove, and a line sixty feet distant from and parallel to the western side of Adelaide street, shall be the eastern boundary thereof. Between New Gower street and the LeMarchant road, the eastern boundary of the said fire-break shall be a line commencing at the north-west angle of a house lately occupied by Thomas Dammeral, lying north of New Gower street, and thence to run in a straight line north-westerly one hundred and sixty feet, more or less, to the north-west angle of a house lately occupied by John Connelly, and thence to be a line forming an angle with and on the western side of the preceding line equal to one hundred and seventy-five degrees, and to be produced until the same strikes the said LeMarchant road ; and a parallel line at the distance of sixty feet shall form the western side line of the said fire-break, between the said New Gower street and the said LeMarchant road.

6. The following cross-streets or fire-breaks, that is to say : Quidi Vidi fire-break, Hill of Chips fire-break, King's Beach fire-break, Prescott street fire-break, McBride's cove fire-break, Beck's cove fire-break, Queen street, Stuart & Rennie's cove, Flower Hill fire-break, Gas Works fire-break, and so much of the street known as Church Hill, and which is situate between the old churchyard and property belonging to Mr. Charles Henry Renouf, the estate of the late John Boyd, and to the late James Tubrid, shall be of the respective widths and according to such lines and boundaries as now exist and have been laid down under the superintendence of any supervisor of streets.

7. For the purpose of marking out and making plainly known the boundary lines of the several streets, fire-breaks, cross-streets, coves and road, hereinbefore described, the said Surveyor General shall cause

marks of stone or iron to be put down in such places as he shall deem necessary for the purpose aforesaid; and the lines of the said streets, cross-streets, fire-breaks, coves and road, so marked and described, shall be the lines and boundaries of the same.

8. The plan already taken of the said streets, cross-streets, fire-breaks, coves and roads, shall be preserved as a record of the lines and boundaries thereof, and shall on all questions touching such lines and boundaries be conclusive evidence of the same.

9. No person shall remove any of the said landmarks without authority in writing for so doing being first obtained from the Governor in Council; and any person who shall unlawfully remove, displace, alter, break, deface or damage any of the said landmarks shall be guilty of a misdemeanor, and shall on conviction thereof in a summary way, before any Justice, forfeit and pay to her Majesty a fine not exceeding twenty-five dollars and costs, to be recovered by warrant of distress and sale of the offender's goods and chattels; and in default of payment such offender shall be liable to be committed to prison for any period not exceeding thirty days.

10. No new road, street or lane shall be opened or made by private parties through their own ground, within the limits of the said town, and upon which houses shall be proposed to be erected, of a less width than fifty feet; and no such new road, street or lane shall be opened or made within eighty feet of any other road, street or lane running parallel, or nearly parallel therewith, used as a thoroughfare and upon which houses or buildings may front, unless upon an order of the Governor in Council first obtained for the purpose; and every such new road, street or lane, so opened or made contrary to the provisions of this chapter, shall be a nuisance and be abated accordingly. And all houses and buildings hereafter to be built, whether on the site of any former building or not, and fronting upon any lane, or any such private road, street or lane now or hereafter to be opened northward of Duckworth street and New Gower street, within the said town, shall be at a distance of not less than twenty-five feet from the centre of such lane, street or road; and all persons before laying down the sills or commencing the erection of houses or buildings fronting on such lanes, streets or roads, shall give six days' notice of their intention to the Surveyor General, who shall direct and control the laying down of such sills and the commencement of such erections; and all parties offending herein shall forfeit and pay to her Majesty a fine of not less than twenty-five dollars, nor more than fifty dollars, to be recovered

in a summary manner on complaint of the Surveyor General before any stipendiary Justice for the central district, and levied by warrant of distress and sale of the goods and chattels of the offender ; and all houses and buildings hereafter built or erected contrary to the provisions of this section shall be public nuisances.

11. No person shall excavate or build upon the front line of any street, lane or fire-break within the town of St. John's, until he shall have given to or left at the office of the Surveyor General a notice in writing, at least two days before the commencement of such intended excavation or erection ; and thereupon the Surveyor General shall examine the said projected work and see that it conforms to the line and levels of such street, lane or fire-break ; and any person neglecting to give such notice, or acting contrary to the directions in writing of the Surveyor General, according to the provisions of this chapter touching the said work, shall be liable to a fine not exceeding the sum of twenty-five dollars, to be recovered in a summary manner before any Justice for the central district, and levied by distress and sale of the offender's goods and chattels ; and any work done contrary to such written directions shall be a public nuisance and abated accordingly.

12. No person shall build or erect in the Queen's road, Military road, and the Circular road, the road between Job's bridge and Palk's house, and the road or street (being a continuation of New Gower street) which extends from Flower Hill fire-break westerly by the northern end of Hutchings' street, and on the northern side of land granted to the late honorable Robert Job to the Marine Parade, or in any other lane or street within the said town or suburbs which the Governor in Council shall have declared or may hereafter declare to be a main street, any house or other building nearer to the centre of such lane, road or street than twenty-five feet, nor within thirty feet of the centre of the road leading from the Ordnance Yard to the Queen's bridge ; and all houses or other buildings erected on any of the streets, roads or lanes named in this section, nearer to the centre thereof than twenty-five feet and thirty feet respectively, shall be public nuisances, and the like proceedings shall be had with respect to the same and with respect to any person building or erecting the same, as are herein provided with respect to other public nuisances.

13. For the purpose of ascertaining the damage that has been or may be occasioned to any person whose interests in any lands or tenements have been or may be in any way affected under the provisions of this chapter, the Governor shall appoint two persons and the party

interested in any such property shall appoint a third, which three persons or any two of them shall determine the amount of compensation, if any, to be paid to such party according to his interest therein. And in case such party shall refuse or neglect to appoint an arbitrator within seven days after notice in writing so to do from the said two arbitrators, such two arbitrators shall name a third arbitrator, and the award of any two of them shall be final and binding. And the said arbitrators shall be sworn before a Magistrate to do justice between the parties, and may summon and require the attendance before them of all parties interested in the property to be appraised by them, or the agents of such parties respectively, and also all necessary witnesses, and require the production before them of all deeds and papers requisite to establish the title or interest of any party claiming compensation in manner hereinbefore mentioned; and may examine on oath (to be administered by any one of such arbitrators) all such parties or their agents, and all such witnesses, touching the matters to be enquired into by such arbitrators. In estimating the damage which may be occasioned to any property by the making, widening or altering of any street, cove or fire-break, the said arbitrators shall take into account any additional value or advantage which may accrue to the several proprietors and occupants from the convenience and security afforded by the widening of the said street; and if the said arbitrators shall be of opinion that any proprietors of ground so required for the streets, fire-breaks and coves as aforesaid, or any of them, may be indemnified at a less expense by having an equal portion of ground assigned to them from any ground adjoining, and that such adjoining ground may be taken without material injury to the proprietor thereof, the said arbitrators shall mark off and in like manner appraise so much of the said adjoining ground as they may think sufficient to replace the ground required for the said streets, fire-breaks and coves, and the same so marked off shall belong to the first-mentioned proprietors, and be in lieu of all indemnity, and the appraised value of the same shall be paid as, and shall be, a full satisfaction and release of the same, and of all right and title thereto: Provided, that if the land so to be given shall not be deemed an equivalent for the land dedicated to the street or fire-break, the said proprietor shall be paid such sum as may be, with the land so to be given, a full satisfaction for the land so dedicated. And the awards or decisions of a majority of the said arbitrators shall in all cases be final and binding on all parties.

14. In the widening of any of the streets or fire-breaks established

by this chapter, it shall not be compulsory to remove houses or buildings without the previous approval of the Governor in Council, and unless such removal can be effected without involving a heavy expense.

15. The paths appropriated for the use of foot passengers on each side of Water street and Duckworth street shall be ten feet wide, and shall be covered with plank or stone to that extent by the proprietor of each house abutting on the said streets along the front of such house or building.

16. The Governor in Council may, by order made and published in the *Royal Gazette* or by proclamation, suspend or altogether dispense with the opening, making, widening or altering any fire-break, street or lane in this chapter mentioned, or any part of any such fire-break, street or lane, and prescribe the width of all such fire-breaks, streets and lanes in their several parts, and the same vary, and regulate the width of all new streets or lanes hereafter to be opened, and the level upon which all streets, lanes and fire-breaks shall be made; and also regulate, alter and adjust the levels and widths of all foot-paths or side-walks heretofore made or laid down, or which may hereafter be laid down in the said town.

17. The Governor in Council may enter upon, assume possession of, and appropriate to the public use, any lands that may be necessary for the opening up, or improving, of any existing road, street, lane, or firebreak, in the town of Saint John's, or any new road, street, lane, or fire-break, in the said town, hereafter to be opened, and define the metes and bounds thereof; and, further, enter upon, abate, and remove any houses, buildings, or other erections, that may now, or at any time hereafter, be upon or encumber any such land appropriated, or to be appropriated, as aforesaid.

18. For the purpose of ascertaining the damage that has been or may be occasioned to any person, whose interests in any lands, houses, buildings, or other erections, have been, or may be in any way affected by virtue of the seventeenth section of this chapter, and for the purpose of providing compensation for such person, the same proceedings shall be taken as are set forth in the thirteenth section of this chapter, and the award and order of the arbitrators shall be of the same force and effect.

19. Every party wall within the limits prescribed for the erection of buildings of stone, brick, or other unflammable materials shall project above and beyond the roof at least twelve inches; and no wood or inflammable material of any description, except doors, door-frames,

window-sashes, window-frames, and roof-boardings, shall be placed within four-and-a-half inches of the outside of the said building; and every chimney shall extend to a height not less than two feet above the ridge-pole.

20. In case of dispute the Surveyor General shall, upon the application in writing of any proprietor or tenant of any land within the said town, desirous of building a party wall, summon before him the tenants or proprietors of the adjoining land, and thereupon after hearing such parties as shall attend, make order as to the extent which the party wall between said parties shall occupy on the ground of each respectively, as to the manner in which the same shall be built, and as to the proportion of the expense thereof to be paid by the said parties respectively: Provided that for every award which may be made by the Surveyor General under this chapter upon a party wall, he shall be entitled to receive the sum of five dollars, to be paid in equal proportions by the proprietors of the said adjoining properties.

21. Any person who shall neglect or refuse to comply with any order or direction made by the Surveyor General as aforesaid shall be subject to a fine not exceeding twenty-five dollars, to be recovered with costs, in a summary manner, by any party who shall sue for the same before a stipendiary Justice of the central district, and shall be levied by distress and sale of the offender's goods and chattels; one moiety of which fine shall be paid to the party suing for the same, and the other moiety shall be paid to the Receiver General for the use of the colony; and the proportion of the cost of such wall to be paid as aforesaid may be recovered in an action of assumpsit for work, labour and materials, in the Supreme Court.

22. When any party shall be desirous of building on his own land, and shall, for the purpose of such building, use in any manner a wall already built by another party upon the adjoining land, the Surveyor General shall, upon the application of either the party so building or the party who shall have built as aforesaid, summon the said parties before him, and after hearing such parties as may attend upon such summons, direct that the party building shall have the use of the said wall to the extent required by him upon paying such proportion of the original cost thereof as the Surveyor General shall deem just; which proportion may be recovered by the party entitled thereto, in manner provided in the twenty-first section.

23. The Governor may cause levels to be taken by the Surveyor General of the several streets, lanes and fire-breaks within the said

town, by which levels all parties shall be required to govern themselves.

24. All copings, parapets, cornices or overhanging roofs, blocking courses, cornices, piers, columns, pilasters, entablatures, facias, door and window dressings, balconies at least ten feet above the level of the street, or other architectural improvements, may project beyond the general line of fronts in any street, lane or fire-break: Provided, that within the limits prescribed for the erection of buildings of stone, brick or other unflammable material, they be wholly composed of such unflammable materials.

25. In every case wherein any tenant holding under a lease commencing previously to the ninth day of June in the year one thousand eight hundred and forty-six, and not surrendered in consequence of the fire which occurred in the said town on that day, shall by law have been or be compelled to build of brick, stone, or any other unflammable material, where such tenant might otherwise have built of wood, such tenant shall, at the expiration of such lease, receive from his landlord compensation either by an extension of his lease for such period as shall not (including the unexpired term) exceed forty years in the whole, or by payment of a sum of money, as may be determined by any two of three arbitrators, of whom one shall be appointed by the landlord, one by the tenant, and the third by the arbitrators already chosen.

26. In the event of any such intended arbitration not being carried into effect, either from the refusal of the landlord to appoint an arbitrator or from the disagreement of the arbitrators, or from any cause other than the refusal of the tenant to appoint an arbitrator, such compensation as aforesaid may be recovered in an action of *assumpsit*, as for money paid, to be brought against the landlord in the Supreme Court.

27. No person shall build, construct, erect or excavate, or proceed in the commencement or completion of any house, building, fence or other erection, within the lines and boundaries by law defined and prescribed as and for the width of any road, street, cove, or fire-break in the said town, whether the party owning or claiming any interest in any such ground embraced within the said lines and boundaries shall or shall not have been paid or tendered compensation for the same.

28. Any person infringing the provisions of this chapter or any order made by the Governor in Council, shall be subject and liable to a penalty not exceeding fifty dollars, to be recovered in a summary way

before any stipendiary Justice for the central district, and shall be levied by distress and sale of the offender's goods and chattels, or in case of non-payment by imprisonment for any period not exceeding two months; and all buildings or erections which shall be erected or constructed in contravention of this chapter or of such order, or which shall be in any manner commenced to be erected or constructed, and all such excavations, shall be public nuisances, and may be abated by any stipendiary Justice for the central district, who shall upon complaint of the Surveyor General or other person, and after hearing the party complained of, or in default of his appearance, upon being satisfied that such party had been duly summoned for that purpose, or that a summons for such purpose had been left in or upon the house, building, erection or excavation complained of, make order for the abatement of such nuisance, and shall furnish such assistance of constables and others as may be necessary for that purpose; and the person who has wilfully committed or shall wilfully commit or continue any such nuisance, shall, on proof thereof in a summary way before such stipendiary Justice, be convicted and pay for every such offence a penalty not exceeding twenty-five dollars, to be levied with costs and expenses, including those of the removal of the nuisance, by warrant of distress of such Justice upon the goods and chattels of the defendant. This section shall not apply to buildings of brick or stone erected pursuant to the act ninth and tenth Victoria, chapter three.

29. A substantial ladder shall be fixed to the roof of every dwelling house, and kept in good repair, except where a regular access to the roof from the inside is provided, and such ladder shall be provided by the proprietor of such dwelling house. And every proprietor of a dwelling house who shall make default herein, shall for every offence forfeit and pay a fine of two dollars, to be recovered with costs in a summary way before any stipendiary Justice for the central district, and levied by warrant of distress and sale of the offender's goods and chattels.

30. All door and window sills in any house or building, which by law hath been or shall be required to be built of unflammable materials, shall be of stone or other unflammable material; and every person who since the first day of May, in the year one thousand eight hundred and forty-nine, has used or caused to be used, in any such building, any door or window sill other than such as is herein directed, and shall not remove the same after one month's notice in writing from the Surveyor General, shall forfeit and pay for every such door

or window-sill a fine of four dollars, to be recovered with costs, at the suit of the Surveyor General in a summary manner before a stipendiary Justice, and shall cause every such door or window-sill to be removed and replaced with a sill of stone or other unflammable material, within such time as shall be prescribed by the Surveyor General, in any such case for that purpose.

31. The Governor in Council may permit the erection of external wooden steps to stores and other buildings, where buildings of unflammable materials are required to be erected, provided such steps are not upon any of the public streets, coves, or lanes, and also of winter porches, between the first of November and the first of May (in any of the streets other than Water street, and the coves south thereof); and railings, entablatures and pilasters, and other erections of the like kind upon any of the streets and lanes, of such size and dimensions, and on such terms and subject to such regulations as the Governor in Council shall prescribe.

32. Wherever, by the making, altering or widening, any street, lane or fire-break, or any portion of such street, lane or firebreak hath been or may hereafter be exchanged for other ground, the Governor in Council may grant such portion of such street, lane or fire-break to the party to whom the same hath been or may be assigned.

33. Where, by the alteration of any street, lane or fire-break under any law heretofore made, any portion of ground not embraced within the new line of such street, lane or fire-break shall be adjoining to or extending along the frontage of any proprietor, such portion of ground shall be set off to and shall be taken by such adjoining proprietor to the extent of his frontage, at a valuation to be ascertained by two arbitrators, one to be named by the proprietor and one by the Governor in Council, and, in case of disagreement, by a third arbitrator to be chosen by the two arbitrators; but should the said proprietor neglect to appoint such arbitrator after six days' notice to be given by the Surveyor General, or should such arbitrators refuse or neglect to concur in the appointment of a third arbitrator, or to act, the Surveyor General shall appoint an arbitrator, and the amount awarded by such arbitrators shall be deducted from the compensation now or hereafter to be payable to any such proprietor; and in case the compensation has been made, or no compensation shall be payable to him, such amount shall, in case of refusal to pay the same, (if the Governor in Council, upon hearing the proprietor or his agent, and upon consideration of the award, and of all the circumstances of the case, shall think fit so

to order,) be levied by warrant of distress and the sale of the lands, goods or chattels of such proprietor, to be issued by a stipendiary Justice for the central district, upon the production before him of the said award and the said order of the Governor in Council; and the said land, so to be set off and to be taken or purchased, shall be conveyed by grant to the purchaser or to the party to whom the same shall be so assigned as aforesaid.

34. The Justice before whom complaints for convictions under this chapter may be had, may enforce by summons (and by warrant if such summons be disobeyed) the attendance of witnesses at the hearing of such complaints; and no conviction shall be quashed for want of form.

35. For the purposes of this chapter the boundaries and limits of the said town of St. John's shall be as follows: Commencing at the harbor and running along the course of the Monday Pond brook until it strikes the Monday Pond road; thence in a straight line to Rennie's Mill bridge on the old Portugal Cove road; thence by the course of the stream running into Quidi Vidi lake; thence from the mouth of the said stream in a straight line to the Ordnance boundary line where it is intersected by the main road leading to Signal Hill; thence by the Ordnance boundary line to the harbor of St. John's; thence by the waters of the harbor to the place of beginning.

36. The Governor in Council may alter the line of road leading from the Military road towards Upper Long pond, and for such purpose shut up and close a certain portion of a public road leading from the town of St. John's to Upper Long pond, commencing at the south-west angle of the iron railing enclosing the grounds of the Roman Catholic cathedral, and running thence in about a north-west direction to the extent of about sixteen chains, more or less, the road or portion of road above mentioned henceforth to be and remain shut and closed from public use; and the part so closed may be leased in such manner as the Governor in Council may deem fit; and there may be opened and appropriated to public use a new road of not less than sixty feet wide, commencing at the south-west angle of the iron railing before mentioned and running towards Fort Townshend in a curved line, and thence in about a north-east direction until it meets or abuts on the said Upper Long Pond road, at, about or beyond the extent of sixteen chains from the said south-west angle of iron railings, the said last-mentioned road lying and being to the westward of land recently leased to the Most Reverend Doctor Power; the road so

to be appropriated to be opened and made as nearly as practicable in pursuance of the foregoing directions.

37. In payment of any amount exceeding one hundred dollars for compensation under this chapter, the Governor in Council may cause to be issued to the parties entitled a debenture in the form to this chapter annexed, and sums under that amount the Receiver General shall, on warrant from the Governor, pay out of any moneys unappropriated in his hands.

FORM.

COLONY OF NEWFOUNDLAND.

Debenture, No.

§

By virtue of chapter eighty of the consolidated statutes of this colony, entitled "Rebuilding of St. John's," the bearer hereof is entitled to receive, at the office of the Receiver General, within _____ years from the date hereof, the sum of _____ dollars and _____ cents, and also interest on the same at the rate of five dollars per centum per annum on the last days of June and December in each year, on production of this debenture at the office of the Receiver General.

Dated at St. John's, Newfoundland, this _____ day of _____ anno Domini, 18____

(Signed)

Receiver General.

(Countersigned)

Colonial Secretary.

CHAPTER 81.

RE-BUILDING OF HARBOR GRACE.

SECTION

- 1—Water street, extent of, &c.
- 2—Governor in Council may widen streets.
- 3—Proprietors of land taken to be compensated. Mode of ascertaining value.
- 4—Adjoining land may be awarded in lieu of money.

SECTION

- 5—Houses built prior to 13th April, 1858, need not be removed.
- 6—Buildings within certain boundaries to be of unflammable materials.
- 7—Limits of town.
- 8—Provision for payment of compensation money.

1. Water street in the town of Harbor Grace shall extend from the Carbonear road on the east to Main's brook on the west, and shall be seventy feet wide throughout, and all buildings which shall be erected on the south side and to the southward of said street shall be built of brick, stone, or other unflammable material, and roofed or covered with iron, slate, or other unflammable material.

2. The Governor in Council may, by order, cause any of the streets in the said town to be widened to such an extent as he may deem expedient.

3. All persons being the owners or tenants of lands or tenements within the said town, whose interests shall be in any way affected by carrying into operation the provisions of this chapter, shall, after such land or tenements are marked off and appropriated for the uses aforesaid, be paid compensation for any damage they may sustain in that behalf; and for the purpose of ascertaining the amount of such compensation, the party interested in the property affected shall name an arbitrator, who, with an arbitrator to be appointed by the Governor in Council, shall appraise the value of the said property; and in case any party interested in such property shall neglect or refuse to appoint an arbitrator within three days after notice so to do, the Governor in Council may appoint such arbitrator. The two arbitrators, whether appointed by the Governor in Council or otherwise, shall, if necessary, appoint a third arbitrator, and the award of any two of such arbitrators shall be final. The said arbitrators shall be sworn before a Justice faithfully and impartially to discharge their duties under this chapter.

4. If the said arbitrators shall be of opinion that any proprietor of any ground required for the said street or fire-break may be indemnified at a less expense to the public by having an equal portion of

ground assigned to him from any ground adjoining, and that such adjoining ground may be taken without material injury to the proprietor thereof, the said arbitrators may mark off so much adjoining ground as they shall think sufficient to replace the ground required for the said street or fire-break ; and the ground so marked off shall belong to the first-mentioned proprietor and shall be in lieu of all indemnity whatever, and the value of the same so to be ascertained by arbitration shall be paid to the proprietor from whom the same was taken, and shall be a full satisfaction and release of the same and of all right and title thereto : Provided that if the land so to be given shall not be deemed an equivalent for the land dedicated to the said street or fire-break, the said proprietor shall be paid such sum as may be, with the land so to be given, a full satisfaction for the land so dedicated.

5. In widening the said streets or fire-breaks it shall not be compulsory to remove any houses or buildings erected prior to the thirteenth day of April in the year one thousand eight hundred and fifty-eight, without the previous approval of the Governor in Council, and unless such removal can be effected without entailing a heavy expense.

6. All houses, buildings, or erections of wood which shall hereafter be built on the south side and to the southward of Water street aforesaid, shall be public nuisances, and may be abated by order of any stipendiary Justice ; and the party erecting or building any such houses, buildings or erections of wood, contrary to the provisions of this chapter, shall be liable for every such offence to pay a fine not exceeding fifty dollars, to be recovered before such stipendiary Justice in a summary way by any person ; and when recovered, shall be paid over to the Receiver General for the use of the colony.

7. For the purposes of this chapter the limits of the said town shall be as follows : Commencing at the end of the Carbonear road on the east, and thence by the waters of the harbor until reaching Main's brook on the west, thence following the course of said brook until it reaches the continuation of Harvey street or the postal road on the north, thence following the north side of the said postal road and Harvey street to the Carbonear road on the east, and thence following the said Carbonear road south to the place of commencement.

8. In payment of any amount exceeding one hundred dollars for compensation under this chapter, the Governor in Council may cause to be issued to the parties entitled a debenture in the form to this chapter annexed, and any sum under that amount the Receiver Gen-

eral shall, on warrant from the Governor, pay out of any moneys unappropriated in his hands.

FORM.

COLONY OF NEWFOUNDLAND.

Debenture, No.

\$

By virtue of the eighty-first chapter of the consolidated statutes of this colony, entitled "Rebuilding of Harbor Grace," the bearer hereof is entitled to receive at the office of the Receiver General, within _____ years from the date hereof, the sum of _____ dollars and _____ cents, and also interest on the same at the rate of five dollars per centum per annum on the last days of June and December in each year, on production of this debenture at the office of the Receiver General.

Dated at St. John's, Newfoundland, this _____ day of _____ anno Domini, 18 _____

(Signed)

Receiver General.

(Countersigned)

Colonial Secretary.

CHAPTER 82.

RE-BUILDING OF CARBONEAR.

SECTION

- 1—Orders of Governor in Council confirmed.
- 2—Boundaries, &c., of main street prescribed.
- 3—Surveyor General to mark out lines of streets and fire-breaks.
- 4—Penalty for building on streets or fire-breaks.
- 5—Compensation to be made. Arbitration.

SECTION

- 6—Manner of paying compensation awarded.
- 7—Adjoining land to be marked off.
- 8—Houses, &c., on south side of main street to be roofed with unflammable materials.
- 9—Line of main street.
- Schedule.

1. All orders made by the Governor in Council, in pursuance of the provisions of an act passed in the fifteenth year of the reign of her present Majesty, and entitled "An act to amend the Carbonear street act," so far as the same have been acted on, are hereby declared valid.

2. The main street of Carbonear, save as it may be altered by section nine of this chapter, shall extend around the harbor thereof from Taylor's beach on the south side, round the Pond head on the west end of the said harbor, and thence eastward to Crocker's Cove bridge,

and shall be sixty feet wide in every part thereof; the south side or water side line of the said main street shall be and run as follows, that is to say: Between the north-east angle of James Kough's house and the north-west angle of Forward's stone store the said line shall run straight; between the north-east angle of the said stone store and the north-west angle of John Connelly's house the said line shall run in such a direction as the Surveyor General shall determine; and between the north-east angle of Casey's house and the north-west angle of Israel L. McNeil's house the said line shall run straight; and all other parts of the said south or water side line shall remain unaltered and as they were previously to the fire which happened at Carbonear on the fifth day of November, in the year one thousand eight hundred and sixty; and all houses, stores, buildings and erections whatsoever, which shall at any time hereafter be erected or built on or near the said street, whether the same be erected on any vacant spot of ground, or upon the site of any former building, shall be made to conform to the width of the said street as the same is hereby established and defined: Provided, that nothing herein contained shall make it compulsory to remove any house or store which hath been erected before the seventh day of March, in the year one thousand eight hundred and sixty-one.

3. The Surveyor General shall lay down and mark out the lines of the said street according to the boundaries defined in this chapter, and also mark out the line and extent of, and form at his discretion a new street at Carbonear; to be fifty feet wide, and which new street shall run in a parallel course, as near as may be, with the aforesaid main street; and also mark out, make and form three cross-streets or fire-breaks. Such cross-streets shall be at least seventy feet wide, and shall extend from the harbor of Carbonear, northwardly, to such new street, and shall be laid out, as nearly as may be, at right angles with the said new street; and after such time as any of the said streets and fire-breaks (which shall first be approved of by the Governor in Council) shall be laid out, and compensation shall be made or tendered for the property necessarily appropriated for such purposes, in the manner hereinafter provided, the ground included in any of the said streets or fire-breaks shall be public property; and all buildings and erections which then remain, or hereafter may be placed or erected on the said ground, shall be public nuisances and may be abated by order of any stipendiary Magistrate.

4. No person shall build, construct, erect, or excavate or otherwise

proceed in the commencement of any building or erection within the limits and boundaries of the said main street, as defined in this chapter, nor within the lines marked or ~~that~~ may be marked out by the Surveyor General, and approved of by the Governor in Council, as and for the width of any street or firebreak, whether the party owning or claiming an interest in the ground embraced within the limits of any such street or firebreak shall or shall not have been paid or tendered compensation for the same; and all such buildings and erections which, from and after the seventh day of March aforesaid, have been or shall be so erected or constructed, or in any manner commenced to be so erected or constructed, shall be public nuisances, and shall be abated by order of any stipendiary Magistrate, who, after hearing the party complained of, or, in default of his appearance on being summoned for that purpose, if such nuisance be proved, shall make an order for the abatement thereof, which order shall be carried into effect by such means as such stipendiary Magistrate may deem expedient.

5. All owners or occupiers of lands and tenements within the said town, whose interests shall be in any way affected by the carrying of the provisions of this chapter into operation, shall, ~~before such lands or tenements shall be appropriated for the uses aforesaid,~~ be paid compensation for any damage they may sustain in that behalf; and for the purpose of ascertaining the amount of compensation to be made in any case, the party interested in the property affected shall name an arbitrator, and the Governor in Council shall name an arbitrator, and such two arbitrators shall, if necessary, name a third; and in case any party interested in such property shall refuse or neglect to appoint an arbitrator within seven days after notice so to do, or in case the arbitrators shall disagree in the choice of a third arbitrator, in either case the Governor in Council shall appoint a third arbitrator; the award of any two of such arbitrators shall be binding between all parties to such arbitration; and the said arbitrators shall be sworn before a Magistrate to do justice between the parties, and may summon and require the attendance before them of all parties interested in the property to be appraised by them or the agents of such parties, and also all witnesses, and require the production before them of all deeds and papers requisite to establish the title or interest of any party claiming in manner hereinbefore mentioned; and shall have power to examine on oath (to be administered by any one of such arbitrators) all such parties or their agents, and all such witnesses.

touching the matters to be enquired into by such arbitrators ; and in estimating the damage which may be occasioned to any property under this chapter, the said arbitrators shall always take into account any additional value or advantage which may accrue to the several proprietors and occupants from the convenience and security afforded by the widening and opening of the said streets or fire-breaks. No expenditure shall be incurred for carrying this chapter into operation until an estimate of the whole cost of the improvements herein contemplated shall first have been prepared and submitted by the Surveyor General to the Governor in Council, and the consent of the Governor in Council to such expenditure, and to the time when such improvements shall be made, shall first have been obtained.

6. The Governor may draw warrants on the Receiver General for the payment of compensation to be awarded under this chapter ; and in discharge of such warrant for any amount not less than one hundred dollars, drawn upon him for such purpose by the Governor, the Receiver General shall pay the parties in whose favor such warrant shall be drawn the amount of compensation to which he may be entitled, by debentures payable within ten years from the date thereof, and bearing interest at the rate of ~~five~~ dollars per centum per annum, which debentures shall be redeemable after three months' notice given in the *Royal Gazette*, at the expiration of which notice all interest on all such debentures mentioned therein shall cease ; and all interest payable upon sums for which such debentures shall be issued as aforesaid, shall be payable half-yearly at the office of the Receiver General, on the production of such debentures before him, on the last days of June and December in each year, and such debentures shall be assignable and (save those already issued) shall be according to the form in the schedule to this chapter annexed.

7. If the said arbitrators shall be of opinion that any proprietor of any lands required for any street or fire-break may be indemnified at a less expense to the public by having an equal portion of ground assigned to him from any ground adjoining, and such adjoining ground may be taken without material injury to the proprietor thereof, the said arbitrators may mark off so much of the adjoining ground as they shall think sufficient to replace the ground required for such street or fire-break, and the ground so marked off shall belong to the first-mentioned proprietor, and shall be in lieu of all indemnity ; and the value of the same, to be ascertained by arbitration in the manner aforesaid, shall be paid as aforesaid to the proprietor from whom the same was

taken, and such payment shall be a full satisfaction and release of the same, and of all right and title thereto: Provided that if the land so to be taken shall not be deemed an equivalent for the land dedicated to the street or fire-break, the said proprietor shall be paid such sum as may be, with the land so to be given, a full satisfaction for the land dedicated.

8. All houses and buildings of every description hereafter to be built or erected on the south side of the said main street shall be roofed with uninflammable materials.

9. The main street of Carbonear shall extend round the harbor thereof, from Taylor's beach on the south side round the Pond head on the west end of the said harbor, and thence eastward to Crocker's Cove bridge, and shall be sixty feet wide in every part thereof; the north side line of said main street shall be and run as follows, that is to say: From the beach to the south-east corner of Nicholle's shop, thence within two feet of John Rorke's stone building lately erected, thence to the south-western corner of Thomas Hogan's shop and dwelling house, and thence continuing the line prescribed by the second section of this chapter; and the southern or water-side line shall be a line drawn parallel to and at a distance of sixty feet from said north line, so far as the same is altered by this section, and thence shall be and continue as directed by the second section of this chapter.

SCHEDULE.

COLONY OF NEWFOUNDLAND.

No.

\$

By virtue of chapter eighty-two of the consolidated statutes of this colony, entitled "Rebuilding of Carbonear," the bearer hereof is entitled to receive at the office of the Receiver General of this colony, within ten years from the date hereof, the sum of dollars, and also interest on the same at the rate of five dollars per centum per annum yearly, on the last days of June and December in each year, on the production of this debenture at the office of the said Receiver General.

Dated at St. John's, Newfoundland, the
day of

A. D., 18

(Signed)

Receiver General.

(Countersigned)

Colonial Secretary.

CHAPTER 83.

OF STORING GUNPOWDER IN THE TOWNS OF ST. JOHN'S, HARBOR GRACE
AND CARBONEAR.

SECTION

- 1—Not more than twenty-five pounds of gunpowder to be kept in any house, &c.
- 2—Nor in any vessel longer than twenty-four hours after coming alongside wharf, &c.
- 3—Magistrates may issue warrants to constables to search premises, &c.
- 4—Penalties.

SECTION

- 5—Rates of storage for gunpowder.
- 6—Gunpowder shall be carried by water.
- 7—Limits of Harbor Grace.
- 8—Limits of Carbonear.
- 9—Chapter not to apply to gunpowder stored in her Majesty's storehouses, &c.
- 10—Meaning of term "house" herein.

1. No person shall have more than twenty-five pounds weight of gunpowder in any house occupied or used by him in the town of Saint John's, Harbor Grace or Carbonear, or within one mile thereof, except in a magazine near the Crow's nest in the town of St. John's, or in any magazines now existing in the towns of Harbor Grace and Carbonear, or in any other public magazine which may, by the Governor in Council, be appointed for the safe storing of gunpowder.

2. Not more than twenty-five pounds weight of gunpowder shall be kept at any one time in any ship in the harbor of St. John's, Carbonear or Harbor Grace longer than twenty-four hours after such ship shall have come alongside of any wharf, or alongside of any other ship, or shall be anchored, moored or stationed within any distance less than fifty fathoms from any wharf or other building: Provided, that this chapter shall not extend to any ship or vessel of war belonging to her Majesty, or to any ship employed in the public service of the Government.

3. Any Magistrate or Justice residing within the judicial districts in which the said towns are situated, on complaint made upon oath by any person that he has reasonable cause to suspect that a greater quantity of gunpowder than is by this chapter allowed is deposited in any house within the said towns or the limits aforesaid, or on board any ship in either of the said harbors, may issue his warrant to a constable to search for the same in the day time; and for that purpose, admittance being first demanded by such constable and refused by the proprietor or occupant of any such house, or by the master or other person in charge of any ship in the harbors aforesaid wherein it is so suspected that gunpowder is unlawfully deposited, such constable

may, if there shall be occasion, break open any such house or any such ship, and enter and search the same; and if upon any such search a greater quantity of gunpowder than by this chapter is allowed shall be found by him, such constable shall seize the same, and shall without delay remove the gunpowder so seized and deposit the same in the magazine, and without delay then give information and make complaint of such seizure before a Justice, who shall thereupon summon such owner of the gunpowder so seized, or person in whose house or in whose ship or in whose keeping the said gunpowder was found, requiring the said party to appear and defend the said information or complaint, which shall by the said Justice be heard and determined in a summary way; and if the said person so summoned shall make default in appearance, or after appearance and hearing, the said Justice shall convict the defendant, he shall make order for the confiscation and sale of the said gunpowder, and after payment of such reasonable costs as the said Justice shall award to be paid out of the proceeds of the sale, one half of the net residue of the proceeds shall be paid to the informer and the other half to the Receiver General for the use of the colony.

4. If any person shall have any greater quantity of gunpowder than twenty-five pounds at any time in any house within the said towns or within one mile of the same, (except as hereinbefore excepted,) or shall have any larger quantity of gunpowder than twenty-five pounds at one time in any ship in the said harbors, longer than twenty-four hours after such ship shall have come alongside of any wharf, or alongside of any other ship, or shall be anchored, moored or stationed within any distance less than fifty fathoms from any wharf or other building, all such gunpowder over and above the weight of twenty-five pounds shall be forfeited, and every such person being owner of the said forfeited gunpowder, and the person having the same in charge or keeping, and the occupant of the house, and the owner or master of the ship wherein such gunpowder shall be deposited, shall, on conviction of having wilfully done anything contrary to the provisions of this chapter, whereby any such gunpowder shall become liable to forfeiture, forfeit and pay for the first offence fifty dollars, for the second offence one hundred dollars, and for the third offence one hundred and fifty dollars, to be recovered at the suit of any person in the supreme or district Courts of this island, together with costs; one half of the forfeitures so recovered to be paid to the person who shall inform and sue for the same, and the other half to the Receiver General

for the use of the colony : Provided that such proceeding shall be commenced within twelve months next after such forfeiture or penalty shall be incurred.

5. For all gunpowder stored in the said magazines and taken out of the same within one year the following rates and prices shall be paid, that is to say : for every barrel fifty cents, for every half barrel thirty cents, and for every quarter barrel twenty cents ; and if such gunpowder shall be stored in the said magazines for any greater time than one year, then there shall be paid for every hundred pounds weight of the same, at and after the rate of fifty cents per annum.

6. All gunpowder which, in pursuance of the provisions of this chapter, shall be carried to and removed from the said magazines or any other magazine hereafter to be built or appointed under the provisions of this chapter, shall at all times be conveyed and carried by water, as far as the same can be water-borne.

7. The town of Harbor Grace, for the purposes of this chapter, shall extend from Bear's cove to Ship's head inclusive, and one half of a mile from high-water mark within the limits aforesaid.

8. The town of Carbonear, for the purposes of this chapter, shall be included within a line extending from Crocker's Cove point to Mosquito point, and including all buildings erected within one half of a mile of high-water mark on the northern and western sides, and within one quarter of a mile of the southern side of the said harbor of Carbonear.

9. The provisions of this chapter shall not extend or be applied to the storing, warehousing or keeping of any gunpowder being the property of her Majesty in any of her Majesty's storehouses, warehouses, depôts or magazines in this island.

10. The term "house" in this chapter, shall include storehouse, warehouse, shop, cellar, yard, wharf or other building; and all buildings and places adjoining each other and occupied together shall be deemed to be one house or place.

CHAPTER 84.

OF THE ST. JOHN'S FIRE BRIGADE.

SECTION

- 1—Directory of Water Company to organize fire brigade.
- 2—Captains of companies with directory and police inspector to be ex officio fire wardens. Penalty for refusing assistance or obstructing.
- 3—Persons convicted may be imprisoned.

SECTION

- 4—Majority of wardens may order pulling down of house to stay progress of fire.
- 5—Persons sustaining loss by such pulling down, how compensated.
- 6—Expenses of brigade to be defrayed from Water Company's funds.
- 7—Penalty for giving false alarm of fire.

1. The directory of the General Water Company shall organize a volunteer fire brigade in connection with the said company, to consist of two or more companies. Each of such companies shall consist of a captain, (to be elected by the members,) and so many engine, hose, axe and ladder men as the said directory may consider necessary; and such companies shall be governed by such rules, as to their internal management, as they themselves shall prescribe: Provided that such rules shall be subject to the approval of the said directory.

2. The captains of the said companies, in conjunction with the said directory and the Inspector of Police, shall be ex-officio fire-wardens for the town of St. John's, and shall form an order of seniority amongst themselves; and upon the occasion of a fire occurring within the said town, the senior warden present, with the aid and assistance of his co-wardens, shall control and manage the said brigade and the water of the said company, and all means available for staying the progress of such fire; and all persons present thereat shall obey the reasonable orders of such senior warden and his assistants in that behalf; and any person refusing obedience to any such order shall be subject to a fine not exceeding four dollars, to be recovered in a summary manner before any stipendiary Justice; and any one wilfully hindering or obstructing the said senior warden or his assistants or any one acting under them in their proceedings, shall be subject to a fine not exceeding twenty dollars, to be recovered as aforesaid, and may be arrested by any person present, and confined in gaol until he can be brought before a Justice for adjudication and punishment: Provided that in the absence of the captain of either of the said companies, when such company shall be called out, the next in command of such company shall, for the time being, be and act as a warden in the place of such captain.

3. Any person convicted under the preceding section, and refusing on such conviction to pay the fine imposed upon him, may be imprisoned by the Justice by whom he shall be convicted for any period not exceeding one month, when convicted of any such obstruction as aforesaid ; and not exceeding one week, when convicted of refusing to obey the reasonable order of the said senior warden.

4. A majority of the wardens present at any fire, if they shall consider such proceeding necessary to stay the progress of the fire, but not otherwise, may pull down or remove any building, or any part thereof.

5. Any person sustaining loss or injury by such pulling down or removal which he probably would not have suffered by the spread of such fire, shall be compensated for the same from the funds of the said Water Company ; and for the purpose of ascertaining the right of any claimant, as well as of determining the amount of damage, if any, sustained by him, the said directory shall appoint one arbitrator, and the party claiming shall appoint another ; the arbitrators thus appointed shall, if necessary, appoint a third, and the decision of any two of such arbitrators shall be final and binding upon all parties : Provided that should the two arbitrators first mentioned not agree in the choice of a third arbitrator, the Governor in Council, upon the application of either party, shall appoint a third arbitrator.

6. The necessary expenses of the said fire brigade shall be defrayed from the funds of the said Water Company ; and for the purpose of providing for such expenses, the directory of the said company from time to time may, if necessary, but subject in all cases to the approval of the Governor in Council, increase the rate of assessment payable under the acts for the incorporation and management of the General Water Company, by such amount as may be necessary for defraying the expenses occasioned by the operation of this chapter ; and such increased assessment shall be raised, levied and collected in and by the means in the said acts prescribed, and under and by virtue of the powers thereby conferred.

7. Any person who shall wilfully and knowingly give or occasion a false alarm of fire shall, upon conviction for such offence before a stipendiary Magistrate in a summary manner, be committed to prison for any time not exceeding one week.

CHAPTER 85.

INTRAMURAL INTERMENTS.

SECTION	SECTION
1—Boundaries of burial grounds in St. John's.	under care and management of the clergy, &c., of the churches or congregations to which they belong.
2—The burial grounds now in use to remain	

1. All the burial grounds situate within the limits hereinafter mentioned shall cease to be used for the interment therein of the bodies of deceased persons ; and no person shall inter the body of any deceased person within the limits following, that is to say : Commencing at the southern end of the Gas Works fire-break ; thence following the direction of the said fire-break north-westerly, sixteen hundred and fifty feet more or less, until it intersects the road leading to Monday's pond ; thence running north-easterly in a straight line seven thousand three hundred feet, more or less, to the bridge over the stream running from Upper Long pond, and situate on the old Portugal Cove road, near Rennie's mill ; thence from the said bridge, following the course of the said stream two thousand eight hundred feet, more or less, easterly, to the north-west angle of a lot of land granted to the Lord Bishop of Newfoundland, and appropriated as a cemetery ; thence following the western boundary line of the said cemetery, southerly, five hundred and seventy-six feet, more or less, to the south-west angle thereof ; thence following the southern boundary of the said cemetery, easterly, four hundred and fifty-six feet, more or less, to its south-eastern angle, and thence in a straight line to the junction of the roads leading to Quidi Vidi ; thence following the direction of the last-named road, easterly, to the stream running from George's pond ; thence following the direction of the said stream, southerly, to the Ordnance boundary line ; thence following the direction of the said boundary line, westerly and southerly, to the shore ; and thence following the windings of the shore westerly, to the place of commencement : except the ground granted to the late Right Reverend Bishop Fleming, and described in a certain grant, bearing date the thirtieth day of June, anno Domini one thousand eight hundred and thirty-eight.

2. The burial grounds situate within the limits aforesaid shall remain under the care, management, direction, and control of the clergy, church wardens, trustees or committees respectively of the churches or congregations to which the same belong, and in whom the said

burial grounds are at present vested ; and shall be fenced, protected, planted and managed in such manner, and under such regulations, as the clergy, church wardens, trustees or committees of the churches or congregations to which the said burial grounds belong shall establish.

CHAPTER 86.

OF LOTTERIES.

SECTION

- 1—Penalty for publishing or holding a lottery of any kind. How enforced and applied.
- 2—Penalty for buying and receiving lottery tickets.
- 3—Sales, gifts, &c., founded in lotteries, to be null and void. Forfeiture.

SECTION

- 4—As to purchasers without notice.
- 5—Non-payment of penalties.
- 6—Chapter not to extend to *bona fide* division of property held in common.
- 7—Limitation of suits.

1. If any person make, print, advertise, or publish, or procure to be made, printed, advertised, or published, any proposal, scheme or plan for holding a lottery, or for advancing, lending, giving, selling, or in any way disposing of any money, or any other property, by lots, cards, tickets, dice or any mode of chance whatever, or sell, barter, exchange, give, lend, or otherwise dispose of, or cause, or procure, or aid, or assist in the sale, barter, exchange, gift, or loan of any money or property, or of any lot, card, ticket, or other means or device for advancing, lending, giving, selling, or otherwise disposing of any money or property by lots, tickets, or any mode of chance whatever, such person shall, upon conviction thereof in a summary manner before any stipendiary Justice, forfeit a sum not exceeding fifty dollars for every such offence, together with costs ; which forfeiture and costs shall be levied by distress and sale of the offender's goods by warrant of such Justice ; and such forfeiture shall be applied one-half to the person suing for the same, and the other half to the Receiver General for the use of the colony.

2. Any person buying, bartering, exchanging, taking, or receiving any such money or property, or any such lot, card, ticket, or other device, as in the first section of this chapter mentioned, shall upon conviction thereof, in like manner as therein mentioned, forfeit the sum of twenty dollars for such offence, to be recovered with costs, and to be applied as aforesaid.

3. Any sale, loan, gift, barter, or exchange of any money or any property by any lottery ticket, card or other mode of chance whatever, depending upon or to be determined by chance or lot, shall be void to all intents and purposes; and all such money or property so sold, lent, given, bartered or exchanged, shall be forfeited to such person as will sue for the same by action or information in any Court of Record in this colony.

4. No such forfeiture shall affect any right or title to such property acquired by any *bona fide* purchaser for valuable consideration without notice.

5. If any person so convicted as aforesaid have not sufficient goods and chattels whereon to levy the penalties authorized by this chapter, or do not immediately pay the said penalties, the Justice convicting such person shall commit him to prison for a period not exceeding three months, unless such fine and costs be sooner paid.

6. Nothing in this chapter contained shall prevent joint-tenants, tenants in common, or persons having joint interest in any property, from dividing any such property by lot or chance in the same manner as if this chapter had not been passed; and the Magistrates, during any seasons of general festivity and other special occasions, may license and permit the holding of cake, bazaar and other lotteries, if of a character which they shall regard as unobjectionable, upon such conditions as they may consider necessary for the preservation of order and propriety.

7. The prosecution of every offence punishable under this chapter shall be commenced within two months next after the commission of such offence, and not afterwards.

TITLE XXIV.

Of Corporations and Public Societies.

CHAPTER 87.

OF THE FORMATION OF CORPORATIONS FOR MANUFACTURING, ETC.,
AND OF PUBLIC SOCIETIES.

SECTION

- 1—Companies, how formed.
- 2—To be bodies corporate.
- 3—Election of directors.
- 4—Election may be on any day.
- 5—Officers.
- 6—Directors to make calls on stockholders.
- 7—Power to make bye-laws.
- 8—Stock transferable.
- 9—Copy of certificate to be evidence.
- 10—The President, &c., on capital stock being fixed and paid in, to certify same.
- 11—Annual report.
- 12—Penalty for falsifying reports, &c.
- 13—Liability of members of company.
- 14—Limitation of their liability.
- 15—Liabilities of directors declaring dividend while company insolvent.
- 16—Shares to be personal property.
- 17—Note or obligation not to be regarded a payment of money. Company not to loan money to shareholders.
- 18—Power of directors to purchase lands, ships, &c.
- 19—Power to increase or diminish capital stock, and extend business of company.

SECTION

- 20—Notice thereof to be given.
- 21—Manner of proceeding at meeting of stockholders in reference to the objects of said notice.
- 22—Company to have its name on its office.
- 23—Directors to keep a record of stockholders, such record to be evidence of facts therein.
- 24—Statement of the affairs of the company.
- 25—On loss of three-fourths of the subscribed capital stock, the business to be brought to a close.
- 26—Sale of property of company in contemplation of insolvency to be void.
- 27—Transfer of property of shareholders in contemplation of insolvency void.
- 28—Any society requiring to be incorporated may file certificate in the Colonial Secretary's office.
- 29—Whereupon such society shall be deemed a body corporate.
- 30—Lands, &c., belonging to such society shall be vested in such corporate society.
- 31—The Governor may appoint general auditors of such companies.

1. Any three or more persons who may desire to form a company for the purpose of carrying on manufacturing, mining, mechanical, chemical, whaling, sealing, fishing, lumbering, or any mercantile business whatsoever, except banking and insurance, may make, sign and acknowledge before a notary public, and file in the office of the Colonial Secretary, a certificate in writing, in which shall be stated the corporate name of the company, and the objects for which the company shall be formed, the amount of the capital stock of the said company, the term of its existence, (not to exceed fifty years,) the number of shares of which the said stock shall consist, the number of

directors and their names, who shall manage the concerns of the said company for the first year.

2. When the certificate shall have been filed as aforesaid, the persons who shall have signed and acknowledged the same, and all stockholders in the said company and their successors, shall be a body politic and corporate in fact and in name, by the name stated in such certificate, and by that name shall have succession, and be capable of suing and being sued; and they and their successors may have a common seal, and may make and alter the same at pleasure; and they shall, by their corporate name, be capable in law of purchasing, holding and conveying any real or personal estate whatsoever which may be necessary to enable the said company to carry on their operations mentioned in such certificate.

3. The stock, property and concerns of such company shall be managed by not less than three or more than nine directors, who shall respectively be stockholders in such company and may be British subjects or aliens, and some of whom shall be residents in this island, who shall, except the first year, be annually elected by the stockholders at such place in this island or elsewhere, and at such time, as shall be directed by the bye-laws of the company; and public notice of the time and place of holding such election shall be published not less than twenty days previous thereto in the *Royal Gazette* of this island; and the election shall be made by such of the stockholders as shall attend for that purpose, either in person or by proxy appointed in writing. All elections shall be by ballot, and each stockholder shall be entitled to as many votes as he owns shares of stock in the said company, and the persons receiving the greatest number of votes shall be directors; and when any vacancy shall happen among the directors by death, resignation or otherwise, it shall be filled for the remainder of the year in such manner as may be provided for by the bye-laws of the said company.

4. In case it shall happen at any time that an election of directors shall not be made on the day designated by the bye-laws of the said company when it ought to have been made, the company for that reason shall not be dissolved; but on any other day an election for directors may be held in such manner as shall be provided for by the said bye-laws; and all acts of directors shall be valid and binding as against such company until their successors shall be elected.

5. There shall be a President of the company who shall be elected by the directors from among themselves; and also such subordinate

officers as the company by its bye-laws may designate, who may be elected or appointed, and required to give such security for the faithful performance of the duties of their offices as the company by its bye-laws may determine.

6. The directors may call in and demand from the stockholders all such sums of money by them subscribed, at such times and in such payments or instalments as the directors shall deem proper, under the penalty of forfeiting the shares of stock subscribed for, and all previous payments made thereon, if payments shall not be made by the stockholders within sixty days after a personal demand or notice requiring such payment shall have been published in the *Royal Gazette* of this island.

7. The directors may make such bye-laws as they shall deem proper for the management and disposition of the stock and business affairs, for the appointment of all officers, and for carrying on all kinds of business within the objects and purposes of such company, and prescribe the duties of such officers, artificers and servants as may be employed.

8. The stock of such company shall be deemed personal property, and shall be transferable in such manner as shall be prescribed by the bye-laws of the company; but no shares shall be transferable until all previous calls thereon shall have been fully paid in, or they shall have been declared forfeited for the non-payment of calls thereon. No such company shall use any of their funds in the purchase of any stock in any other corporation.

9. The copy of any certificate of incorporation filed in pursuance of this chapter, certified by the Colonial Secretary to be a true copy, shall be received in all Courts and places as presumptive legal evidence of the facts therein stated.

10. The President and one or more of the directors, within thirty days after the payment of the last instalment of the capital stock fixed and limited by the company, shall make a certificate stating the amount of the capital so fixed and paid in, which certificate shall be signed and sworn to by the President and one or more of the directors, and they shall, within the said thirty days, record the same in the office of the Colonial Secretary.

11. Every such company shall annually, within forty days from the first day of January, make a report, which shall be published in the *Royal Gazette* of this island, and shall state the amount of capital, and of the proportion actually paid in, and the amount of its existing

debts, shall be signed by the President and a majority of the directors, and verified by the oath of the President or secretary of said company, and filed in the office of the Colonial Secretary, to be by him laid before the Legislature.

12. If any certificate or report made or public notice given by the officers of any such company, in pursuance of the provisions of this chapter, shall be false in any material representation, all the officers who shall have signed the same, knowing it to be false, shall be jointly and severally liable for all the debts of the company contracted while they are stockholders or officers thereof.

13. The members of a company incorporated under this chapter shall not be liable under any attachment, judgment, decree, or order, which shall be obtained against such company, or for any debt or engagement of such company, further or otherwise than is herein provided.

14. If any execution, sequestration, or other process in the nature of execution, either at law or in equity, shall have been issued against the property or effects of the company, and if there cannot be found sufficient whereon to levy or enforce such execution, sequestration or other process, then such execution, sequestration or other process may be issued against any of the shareholders to the extent of the portions of their shares in the capital of the company not then paid up; but no shareholder shall be liable to pay, in satisfaction of any one or more such executions, sequestrations or other process, a greater sum than shall be equal to the portion of his share not paid up: Provided that no such execution shall be issued against any shareholder except upon an order of the Court, or a Judge of the Court in which the action, suit or other proceeding shall have been brought or instituted, and such Court or Judge may order execution to issue accordingly, with the reasonable costs of such application and execution, to be taxed by a master of the said Court; and for the purpose of ascertaining the names of the shareholders and the amount of capital remaining to be paid upon their respective shares, any person entitled to any such execution may at all reasonable times inspect the register of shareholders without fee.

15. If the directors of any such company shall declare and pay any dividend when the company is known by them to be insolvent, or any dividend the payment of which would to their knowledge render it insolvent, they shall be jointly and severally liable for the debts of the company then existing, and for all that shall be thereafter con-

tracted, so long as they shall respectively continue in office: Provided that the amount for which they shall be so liable shall not exceed the amount of such dividend, and that if any of the directors shall be absent at the time of making the dividend, or shall object thereto, and shall file their objection in writing with the clerk of the company, they shall be exempted from the said liability.

16. The shares in the capital stock of the said company shall be liable to attachment and execution as other personal property, and the process or warrant in such case shall be served on the President or director of the said company resident in Newfoundland, and such service shall bind the shares of any stockholder to the extent of such attachment or execution issued against him from the time that notice thereof shall be actually given at the principal office of the said company in this island where the transfer of shares shall be registered; and for the purpose of ascertaining the number of shares held by any shareholder against whom any attachment or execution may have been issued, the President, secretary or director or other officer of the said company, may be examined in like manner as any third person having in his possession any goods, moneys, debts or effects of any defendant; and upon the sale by the sheriff or other proper officer of any such shares under execution or otherwise, the officers or agents of the said company having charge of the transfer books shall, on production of a bill of sale from the sheriff or other proper officer, transfer to the purchaser thereof the number of shares sold under such execution or other process, and belonging to the defendant at the time of such notice being given at the transfer office as aforesaid, and such transfer shall be valid and effectual to all intents and purposes: Provided that such sale shall be subject to any debt that may be due from such defendant to the said company, and that no sale shall be made or judgment rendered until at least three months after such notice shall have been given at the transfer office as aforesaid.

17. No note or obligation given by any shareholder to the company whereof he is shareholder, whether secured by any pledge or otherwise, shall be considered as payment of any money due from him on any share held by him, and no loan of money shall be made by any such company to any shareholder therein; and if any such loan shall be made to a shareholder, the directors who shall make it, or who shall assent thereto, shall be jointly and severally liable, to the extent of such loan and interest, for all the debts of the company contracted before the repayment of the sum lent.

18. The directors of such company may purchase vessels, lands, mines, manufactories and other property necessary for the business of the company, and issue stock to the amount of the value thereof in payment therefor; and the stock so issued shall be declared and taken to be full stock, and not liable to any further calls.

19. Any corporation which may be formed under this chapter may increase or diminish its capital stock, by complying with the provisions of this chapter, to any amount which may be deemed sufficient and proper for the purposes of the corporation; and may also extend its business to any other manufacturing, mining, mechanical, chemical, whaling, sealing, fishing, lumbering, or any other mercantile business, except banking and insurance, subject to the provisions and liabilities of this chapter. But before any corporation shall be entitled to diminish the amount of its capital stock, if the amount of its debts and liabilities shall exceed the amount of capital to which it is proposed to be reduced, such amount of debts and liabilities shall be satisfied and reduced so as not to exceed such diminished amount of capital.

20. Whenever any company shall desire to call a meeting of the stockholders for the purpose of availing itself of the privileges and provisions of this chapter, or for increasing or diminishing the amount of its capital stock, or for extending or changing its business, the directors shall publish a notice, signed by at least a majority of them, in the *Royal Gazette* of this island at least six successive weeks, and deposit a written or printed copy thereof in the Post office, addressed to each stockholder, at his usual place of residence, at least six weeks previous to the day fixed upon for holding such meeting; specifying the object of the meeting, the time and place when and where such meeting shall be held, and the amount to which it shall be proposed to increase or diminish the capital, and the business to which the company would be extended or changed; and a vote of at least two-thirds of all the shares of the stock shall be necessary to an increase or diminution of the amount of its capital stock, or the extension or change of its business as aforesaid, or to enable a company to avail itself of the provisions of this chapter.

21. If at the time and place specified in the notice provided for in the preceding section of this chapter, stockholders shall appear in person or by proxy authorized in writing, in number representing not less than two-thirds of all shares of all stock of the corporation, they shall organize by choosing one of the directors chairman of the meeting, and also a suitable person for secretary, and proceed to a vote of those

present in person, or by proxy authorised in writing ; and if, on canvassing the votes, it shall appear that a sufficient number of votes has been given in favor of increasing or diminishing the amount of capital, or of extending or changing its business as aforesaid, or for availing itself of the privileges and provisions of this chapter, a certificate of the proceeding, showing a compliance with the provisions of this chapter, the amount of capital actually paid in, the business to which it is extended or changed, the whole amount of debts and liabilities of the company, and the amount to which the capital stock shall be increased or diminished, shall be made out, signed and verified by the affidavit of the chairman, and be countersigned by the secretary ; and such certificate shall be acknowledged by the chairman, and filed as required by the first section of this chapter ; and when so filed, the capital stock of such corporation shall be increased or diminished to the amount specified in such certificate, and the business extended or changed as aforesaid ; and the company shall be entitled to the privileges and provisions and be subject to the liabilities set forth in this chapter, as the case may be.

22. Every company formed under this chapter shall print or affix, and shall keep painted or affixed, its name on the outside of every office or place in which the business of the company is carried on, in a conspicuous position, in letters easily legible, and shall have its name engraven in legible characters on its seal, and shall have its name mentioned in legible characters in all notices, advertisements and other official publications of such company, in all bills of exchange, promissory notes, cheques or orders for money, bills of parcels, invoices, receipts, letters and other writings used in the transaction of the business of the company.

23. The directors of every such corporation or company shall cause a book to be kept by the treasurer or clerk thereof, containing the names of all persons, alphabetically arranged, who are or shall within six years have been stockholders of such company, and showing their places of residence, the number of shares of stock held by them respectively, and the time when they became respectively the owners of such shares, and the amount actually paid in ; which book shall, during the usual business hours of the day on every lawful day, be open for the inspection of stockholders and creditors of the company and their personal representatives at the office or principal place of business of such company in this island ; and any and every such stockholder, creditor or representative shall have a right to make extracts

from such book ; and no transfer of stock shall be valid for any purpose whatever except to render the person to whom it shall be transferred liable for the debts of the company, according to the provisions of this chapter, until it shall have been entered therein as required by this section, by an entry showing to and from whom transferred ; such book shall be presumptive evidence of the facts therein stated in favor of the plaintiff in any suit or proceeding against such company or against any one or more stockholders. Every officer or agent of any such company who shall neglect to make any proper entry in such book, or shall refuse or neglect to exhibit the same or allow the same to be inspected and extracts to be taken therefrom as provided by this section, shall be guilty of a misdemeanor, and the company shall forfeit and pay to the party injured a penalty of two hundred dollars for every such neglect or refusal and all the damages resulting therefrom ; and every company that shall neglect to keep such book open for inspection as aforesaid shall forfeit to her Majesty the sum of two hundred dollars for every day it shall so neglect, to be sued for and recovered in the name of her Majesty by the Attorney General of this island, and when so recovered the amount shall be paid into the office of the Receiver General for the use of the colony.

24. Whenever any person or persons owning fifteen per cent of the capital stock of any company, formed under the provisions of this chapter, shall present a written request to the treasurer or other proper officer thereof, demanding a statement of the affairs of such company, such treasurer or other proper officer shall make a statement under oath of the affairs of said company, embracing a particular account of all its assets and liabilities in minute detail, and deliver such statement to the person who presented the written request to such treasurer or other proper officer within twenty days after such presentation ; and shall also, at the same time, place and keep on file in his office, for six months thereafter, a copy of such statement, which shall at all times during business hours be exhibited to any stockholder of said company demanding an examination thereof ; such treasurer or other proper officer, however, shall not be required to deliver such statement in the manner aforesaid oftener than once in any six months. If such treasurer or other proper officer shall neglect or refuse to comply with any of the provisions of this section, he shall forfeit and pay to the person presenting said written request the sum of forty dollars, and a further sum of eight dollars for every twenty-four hours thereafter until such statement shall be furnished, to be sued for and recovered in any Court having cognizance thereof.

25. In the case of any company which has obtained a certificate of limited liability, whenever, on taking the yearly accounts of such company, or by any report of the auditors thereof, it appears that three-fourths of the subscribed capital stock of the company have been lost, or have become unavailable in the course of trade, from the insolvency of shareholders, or from any other cause, the trading and business of such company shall forthwith cease, or shall be carried on for the sole purpose of winding up its affairs; and the directors of such company shall forthwith take proper steps for dissolution of such company, and for the winding up of its affairs, by petition to the Supreme Court, which shall make such order, judgment, or decree thereon, as shall be just, or by such other lawful course as the directors may think most fit.

26. Every sale, assignment or transfer of any of the property or effects of such company, made thereby, when in contemplation of a declaration of insolvency, or after or in contemplation of a declaration of the insolvency of any shareholder, with the intent to give a preference to any creditor of such company or insolvent shareholder over other creditors of such company; and every judgment confessed, lien created or security given by such company, under the like circumstances and with the like intent, shall be void as against the creditors of such company.

27. Every such sale, assignment or transfer of any of the property or effects of a shareholder made by such shareholder when in contemplation of a declaration of insolvency, or after or in contemplation of a declaration of the insolvency of the company, with the intent of giving to any creditor of his own or of the company a preference over other creditors of the company, and every judgment confessed, lien created or security given by any such shareholder, under the like circumstances and with the like intent, shall be void as against the creditors of the company.

28. At any time hereafter any society or association formed for religious, charitable, educational or other lawful purpose, being desirous to promote the objects for which it is or may be established, may, through the office bearers, trustees or members, make, sign and acknowledge, before a notary public, and file in the office of the Colonial Secretary, a certificate in writing in which shall be stated the proposed corporate name of the said society or association, and the objects for which the same is or shall be formed, the names of its office bearers, trustees or members, and the rules, regulations, orders and bye-laws thereof.

29. When such certificate shall have been filed, the persons who shall have signed and acknowledged the same, and all other members of such society or association, and their successors, shall be a body politic and corporate in fact and in name, by the name stated in such certificate, and by that name have succession, shall be capable of suing and being sued, and they and their successors may have a common seal, and may make and alter the same at pleasure ; and they may elect officers, and make bye-laws, rules and regulations for the management of the affairs of such society or association ; and they shall, by their corporate name, be capable in law of purchasing, holding, and conveying any landed or personal estate whatever ; and of transacting all business appertaining to such society or association, according to such bye-laws, rules and regulations.

30. Immediately upon filing the said certificate, all the lands, tenements, funds, moneys, securities, and other property belonging to such society or association shall, by virtue of this chapter, and without further or other conveyance, be transferred to and vested in such corporate society or association for the uses thereof.

31. The Governor in Council may direct an audit of the accounts of any such companies in such manner and at such times as may be deemed necessary or expedient.

TITLE XXV.

Of the Regulation of Trade in Certain Cases.

CHAPTER 88.

OF LIMITED PARTNERSHIPS.

SECTION

- 1—Purposes of limited partnerships.
- 2—Partnership to consist of general and special partners. Their liabilities.
- 3—General partners to transact business.
- 4—Certificate to be signed by all the partners.
- 5—Certificate, before whom and how acknowledged.
- 6—In what places to be filed and recorded.
- 7—Affidavit also to be filed.
- 8—Partnership, when deemed formed. Effect of false certificate.
- 9—Terms of partnership. How published. Effect of omission.
- 10—Affidavit of publication. Where to be filed. Effect as evidence.
- 11—Renewals, &c., of partnership, how to be made.
- 12—Alterations deemed dissolution.

SECTION

- 13—In what form and name business to be carried on.
- 14—Suits to be in names of general partners.
- 15—Special partner not to withdraw his capital.
- 16—When to refund interest paid by him.
- 17—Rights of special partners and restriction on them.
- 18—Liability of general partners to account.
- 19—Liability and punishment of parties guilty of fraud.
- 20—Assignment of certain creditors void.
- 21—Certain assignments void.
- 22—Certain acts of special partner to render him liable.
- 23—Special partners not to claim as creditors in case of insolvency of firm.
- 24—Dissolution by acts of partners. Schedule.

1. Limited partnerships for the transaction of mercantile, mechanical or manufacturing business within this island may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities herein prescribed; but the provisions of this chapter shall not be construed to authorise any such partnership for the purpose of transacting the business of banking or making insurance.

2. Such partnerships may consist of one or more persons who shall be called general partners, and who shall be jointly and severally responsible as general partners now are by law; and of one or more persons who shall contribute in actual cash payments, or in property at its actual cash value, a specific sum as capital to the common stock, who shall be called special partners, and who shall not be liable for the debts of the partnership beyond the fund so contributed by him or them to the capital.

3. The general partners only shall be authorised to transact business, and sign for the partnership, and to bind the same.

4. The persons desirous of forming such partnership shall make, and severally sign, a certificate similar in effect to form No. 1, in the schedule hereunto annexed, and which certificate shall contain :

- 1.—The name or firm under which such partnership is to be conducted.
- 2.—The general nature of the business intended to be transacted.
- 3.—The names of all the general and special partners interested therein, distinguishing which are general and which are special partners, and their respective places of residence.
- 4.—The amount of capital which each special partner shall have contributed to the common stock.
- 5.—The period at which the partnership is to commence, and the period at which it will terminate.

5. The certificate shall be acknowledged by the several persons signing the same, before a notary public, who shall certify such acknowledgment, whether made abroad or in this colony, under his seal of office, to the effect of form No. 2 in the schedule to this chapter annexed.

6. The certificate so acknowledged and certified shall be filed in the office of the Colonial Secretary, and shall be recorded in the said office at large in a book to be kept for that purpose, open to public inspection. If the partnership shall have places of business situate in different districts, a transcript of the certificate and of the acknowledgment thereof, duly certified by the Colonial Secretary under his official seal, shall be filed and recorded in like manner in the office of the registrar of deeds for such district.

7. At the time of filing the original certificate, with the evidence of the acknowledgment thereof as before directed, an affidavit of one or more of the general partners shall also be filed in the same office, stating that the sums specified in the certificate to have been contributed by each of the special partners to the common stock have been actually and in good faith paid ; and which affidavit shall be similar in effect to form No. 3 in the annexed schedule.

8. No such partnership shall be deemed to have been formed until a certificate shall have been made, acknowledged, filed and recorded, nor until an affidavit shall have been filed as above directed ; and if any false statement be made in such certificate or affidavit all the persons interested in such partnership shall be liable for all the engagements thereof as general partners.

9. The partners shall publish the terms of the partnership, when

registered, for at least six weeks immediately after such registry, in the *Royal Gazette* and in one or two other newspapers to be designated by the Colonial Secretary, and to be published in this island; and if such publication be not made, the partnership shall be general; and such advertisement shall be similar in effect to form No. 1 in the said annexed schedule.

10. Affidavits of the publication of such notice by the printers of the newspapers in which the same shall be published shall be filed in the office of the Colonial Secretary, and shall be evidence of the facts therein contained, and which affidavits shall be similar in effect to form No. 5 in the said annexed schedule.

11. Every renewal or continuance of such partnership beyond the time originally fixed for its duration shall be certified, acknowledged and recorded, and an affidavit of a general partner be made and filed, and notice be given in the manner herein required for its original formation; and every such partnership which shall be otherwise renewed or continued shall be deemed a general partnership.

12. Every alteration which shall be made in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership, unless such alteration shall have been made according to the provisions of the twenty-fourth section of this chapter; and any such partnership which shall in any manner be carried on after any such alteration shall have been made shall be deemed a general partnership, unless renewed as a special partnership according to the provisions of the last preceding section.

13. The business of the partnership shall be conducted under a firm, in which the names of the general partners only shall be inserted, without the addition of the word "company," or any other general term; and if the name of any special partner shall be used in such firm, with his privy, he shall be deemed a general partner.

14. Suits in relation to the business of the partnership may be brought and conducted by and against the general partners in the same manner as if there were no special partners.

15. No part of the sum which any special partner shall have contributed to the capital stock shall be withdrawn by him, or paid or transferred to him in the shape of dividends, profits or otherwise, at any time during the continuance of the partnership; but any partner may annually receive interest on the sum so contributed by him, if the payment of such interest shall not reduce the original amount of

such capital; and if, after the payment of such interest, any profits shall remain to be divided, he may also receive his portion of such profits.

16. If it shall appear that by the payment of interest or profits to any special partner the original capital has been reduced, the partner receiving the same shall be bound to restore the amount necessary to make good his share of capital with interest.

17. A special partner may, from time to time, examine into the state and progress of the partnership concerns, and may advise as to their management, and any remuneration of special partners or any other persons acting as servants or agents for any such partnership by a share of the profits or otherwise shall not render them liable as general partners; but he shall not transact any business on account of the partnership, nor be employed for that purpose as agent, attorney or otherwise. If he shall interfere contrary to these provisions, he shall be deemed a general partner.

18. The general partners shall be liable to account to each other and to the special partners for their management of the concern, both in law and equity, as other partners are now by law.

19. Every partner who shall be guilty of any fraud in the affairs of the partnership shall be liable civilly to the party injured to the extent of his damage; and shall also be liable to an indictment for a misdemeanor, punishable on conviction by fine or imprisonment or both, in the discretion of the Court by which he shall be tried.

20. Every sale, assignment or transfer of any of the property or effects of such partnership made by such partnership when actually insolvent or in contemplation of insolvency, or after or in contemplation of a declaration of insolvency of any partner, with the intent of giving a preference to any creditor of such partnership or insolvent partner over other creditors of such partnership; and every judgment confessed, lien created, or security given by such partnership, under the like circumstances and with the like intent, shall be void as against the creditors of such partnership.

21. Every such sale, assignment or transfer of any of the property or effects of a general partner, made by such general or special partner when actually insolvent, or in contemplation of a declaration of insolvency, or after or in contemplation of a declaration of insolvency of the partnership, with the intent of giving to any creditor of his own or of the partnership a preference over other creditors of the partnership, and every judgment confessed, lien created, or security given by

any such partner, under the like circumstances and with the like intent, shall be void as against the creditors of the partnership.

22. Every special partner who shall violate any of the provisions of the two last preceding sections, or who shall concur in or assent to any such violation by the partnership or by any individual partner, shall be liable as a general partner.

23. In case of the insolvency or bankruptcy of the partnership no special partner shall under any circumstances be allowed to claim as a creditor until the claims of all the other creditors of the partnership shall be satisfied.

24. No dissolution of such partnership by the acts of the parties shall take place previous to the time specified in the certificate of its renewal, until a notice of such dissolution shall have been filed and recorded in the Colonial Secretary's office, in which the original certificate was recorded, and published once in each week, for four weeks, in the *Royal Gazette*, and any other local newspaper published in this island.

SCHEDULE OF FORMS.

No. 1.

CERTIFICATE OF FORMATION OF LIMITED PARTNERSHIP.

This is to certify that we, whose names are undersigned, are desirous of forming a limited partnership, and

1st. That the name or firm under which such partnership is to be conducted is: (here insert the name or firm, as "George Thompson," or "Thompson & Black," as the case may be.)

2nd. That the general nature of the business intended to be transacted by such partnership is: (here insert the general nature of the business, as the buying and selling at wholesale and retail, of tobacco, snuffs and cigars, and such other articles as are usually bought and sold by persons trading as tobacconists or dealers in tobacco.)

3rd. That the names of all the general and special partners interested in the said co-partnership are as follows: (here insert the names and places of residence of each partner, and specify which are general and which are special partners, as thus: George Thompson, James Black, Henry Lloyd and Alfred Smee; that the said George Thompson is a general partner, and his place of residence is in

; that the said James Black is a general partner, and his place of residence is also in

; that the said Henry Lloyd is a special partner, and his place of residence is in

; and that the said Alfred Smee is a special partner, and his place of residence is in

as the case may be.)

4th. That the amount of capital which each of the said special partners has contributed to the common stock of the said partnership is as follows : (here insert as thus, or as the case may be : the said Henry Lloyd the sum of _____, and the said Alfred Smee the sum of _____.)

5th. That the period at which the said partnership is to commence is the _____ day of _____ 18 (insert the date, which should be after the certificate is filed and recorded,) and the period at which the said partnership is to terminate is the _____ day of _____ 18 (insert the date.)

As witness our hands, on this _____ day of _____ 18

(Signed)

GEORGE THOMPSON,
JAMES BLACK,
HENRY LLOYD,
ALFRED SMÉE.

No. 2.

NOTARIAL CERTIFICATE.

Newfoundland : St. John's, s.s. (or as the case may be.)

On this _____ day of _____ 18 before me, A. B., of St. John's, (or as the case may be) Notary Public, duly admitted and sworn and practising at St. John's (or as the case may be) afore-said, personally came the above-named George Thompson, James Black, Henry Lloyd and Alfred Smee, to me known to be the persons described in and who signed the above certificate, and who severally acknowledged to me that they severally signed the said certificate.

A. B., &c., &c.

No. 3.

AFFIDAVIT TO BE FILED WITH CERTIFICATE.

Newfoundland : St. John's, ss. (or as the case may be).

George Thompson of this city maketh oath and saith :

That he is one of the general partners named in the above-written (or annexed) certificate, and that the several amounts specified in the said certificate to have been contributed by each of the special partners, in the said certificate named, to the common stock of the said partnership, in the said certificate also named, have been actually and in good faith paid in cash, (or in property at its actual cash value, specifying the general description of the property, as the case may be.)

Sworn, &c.

(Signed)

GEORGE THOMPSON.

No. 4.

ADVERTISEMENT OF TERMS OF PARTNERSHIP.

Similar in effect to form No. 1.

No. 5.

AFFIDAVIT OF PUBLICATION BY PRINTER OF NEWSPAPER.

Newfoundland, St. John's, ss.

A. B., of maketh oath and saith that he is printer of the newspaper known as the (insert name of paper) published daily or weekly at (insert the place of publication of newspaper,) and that the advertisement, a copy whereof is hereto annexed, was published in said newspaper for six weeks successively, that is to say: in the issue of said newspaper, dated respectively the day of , the day of , the day of , the day of , and the day of , (insert dates when advertisement appeared.)

Sworn, &c.

(Signed),

A. B.

CHAPTER 89.

OF CERTAIN AMENDMENTS IN THE LAW OF PARTNERSHIP.

SECTION

- 1—Advance of money on contract to receive share of profits not to constitute lender a partner.
- 2—Payment to agents, by share of profits, not to make them partners.
- 3—Certain annuitants not deemed partners.

SECTION

- 4—Receipt of profits on sale of good-will not to make seller a partner.
- 5—In case of insolvency, lender not to rank with other creditors.
- 6—Interpretation of "person."

1. The advance of money by way of loan to a person engaged or about to engage in any trade or undertaking, upon a contract in writing with such person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on such trade or undertaking, shall not of itself constitute the lender a partner with the person carrying on such trade or undertaking, or render him responsible as such.

2. No contract for the remuneration of a servant or agent of any person engaged in any trade or undertaking, by a share of the profits of such trade or undertaking, shall of itself render such servant or agent responsible as a partner therein, nor give him the rights of a partner.

3. No person being the widow or child of a deceased partner of a trader, and receiving by way of annuity a portion of the profits made

by such trader in his business, shall by reason of such receipts be deemed to be a partner of or to be subject to any liabilities incurred by such trader.

4. No person receiving by way of annuity or otherwise a portion of the profits of any business, in consideration of the sale by him of the good will of such business, shall by reason only of such receipt be deemed to be a partner of or be subject to the liabilities of the person carrying on such business.

5. In the event of any such trader as aforesaid being adjudged insolvent, or taking the benefit of any act for the relief of insolvent debtors, or entering into an arrangement to pay his creditors less than one hundred cents in the dollar, or dying in insolvent circumstances, the lender of any such loan as aforesaid shall not be entitled to recover any portion of his principal or of the profits or interest payable in respect of such loan, nor shall any such vendor of a good-will as aforesaid be entitled to recover any such profits as aforesaid, until the claims of the other creditors of the said trader, for valuable consideration in money or money's worth, have been satisfied.

6. In the construction of this chapter the word "person" shall include a partnership firm, a joint-stock company and a corporation.

CHAPTER 90.

OF INSOLVENCY.

SECTION

- 1—Court or Judge may declare persons insolvent.
- 2—Party declared insolvent not liable to arrest, &c.
- 3—Proceeding to be by petition.
- 4—Time to be appointed. Examiner. Notice in newspapers. Petition to be filed.
- 5—Insolvency in outports. Notice on Court house, &c.
- 6—Judge may order examinations to be taken at any place.
- 7—Adjournment of hearing. Petition may be dismissed.
- 8—Parties sought to be declared insolvent liable to punishment in certain cases.
- 9—Petition not to be withdrawn without consent of creditors.
- 10—Power of summoning witnesses. No seal necessary.
- 11—Void assignments, &c.
- 12—Trustees. Their duties. Not bound to accept leasehold interests.
- 13—Liabilities of trustees and assignees.
- 14—Trustees may be changed at instance of creditors.
- 15—Compensation to trustees.
- 16—Judge may order performance of certain matters before discharge of debtor.
- 17—Costs of attachment, &c., to be allowed.
- 18—Other costs to be in discretion of the Court or Judge.
- 19—Costs of creditors.
- 20—Costs, how taxed.
- 21—Insolvent refusing to deliver up property may be remanded or committed.
- 22—Certificate, how granted.
- 23—Rent coming due after insolvency.
- 24—Seamen, fishermen and other servants, privileged creditors.
- 25—If estate insufficient, to be paid rateably.
- 26—Servants engaged without merchant's knowledge not privileged creditors.
- 27—Servant *bona fide* shipped in place of another, privileged creditor.

SECTION

- 28—Receiver entitled to same defence as hirer.
- 29—In actions by servants against receiver, sufficient if insolvency be made to appear.
- 30—Collusion between servant and hirer.
- 31—Recovery against receiver, other than supplier.
- 32—Distribution of estate.
- 33—Clerks' and servants' wages and fishermen, &c., to be paid first.
- 34—Crown debts second charge. Debts due Savings Bank.
- 35—Current supplier to rank next.
- 36—Insolvency of deceased persons.
- 37—Judge may refer claims, &c., to Master.
- 38—Appeal.
- 39—Judge may make further orders.
- 40—Party giving false evidence guilty of perjury.
- 41—Jury may be empanelled to try questions of fact.
- 42—Arrangements and compositions.
- 43—Relief of trustee in such cases.
- 44—Rights of creditors preferential by law shall be prior claims.
- 45—Mode of calculating number and value of creditors.
- 46—Arrangement or composition, to have same effect as a certificate of insolvency.
- 47—Liability of person secondarily liable not affected by this chapter.
- 48—Distrain.
- 49—Rent falling due.
- 50—Debts provable in insolvency, mode of calculating dividend.
- 51—Payment of dividend by trustee.
- 52—Creditor, on giving up security, can prove for whole debt.
- 53—Mode of proceeding when illness or absence of a Judge occurs.
- 54—A Judge hearing proceeding in insolvency shall be deemed a Court of Record.

PROCEEDINGS IN INSOLVENCY.

1. The Supreme Court in term or vacation, or any Judge thereof in

chambers, may declare any person insolvent who may be made to appear to the satisfaction of such Court or Judge (in manner hereinafter provided) insolvent or unable to pay his creditors one hundred cents to the dollar ; and in case such person shall have been arrested and be in prison or on bail under mesne or final process, or by virtue of any other proceeding either at law or in equity, except for contempt for any matter other than the non-payment of money, may discharge him from prison, unless he shall have rendered himself liable to punishment in manner hereinafter provided and exonerate his bail ; and in case a writ of attachment shall have issued against such person, the property attached under which shall have been relieved from attachment by security, may discharge such security from further responsibility upon the property so attached being delivered up, or the value of it paid into Court to the credit of the insolvent estate, in cases where, or to the extent to which, the security would be liable to answer by his bond.

2. No person declared insolvent under this chapter shall be liable thereafter to arrest or imprisonment for any debts or liabilities for which a certificate of insolvency and discharge under this chapter would be a discharge.

3. Any debtor desiring to be declared insolvent, or any person desiring to have his debtor declared insolvent, shall proceed by petition, directed to the Court or Judge, as the case may be, setting forth that such debtor is insolvent or unable to pay his creditors one hundred cents to the dollar, and, in case of the debtor himself being the petitioner, having attached to the petition a schedule containing a true account of his debts and liabilities and of his assets ; and where the petition is by a creditor, the said petition shall have attached to it a like schedule, or a statement of such facts as may satisfy the Court or Judge that the order hereinafter mentioned should be made upon the petition, or that the case is one for enquiry. The petition shall have attached to it an affidavit of the truth of its contents, and where a schedule accompanies, of the contents of such schedule.

4. The Court or Judge shall appoint a specified time and place for the hearing upon any day not more distant than twelve days, except in the cases hereinafter provided, where it shall be deemed necessary to appoint a commissioner or examiner, the rule or order for such hearing shall, where the application is made in St. John's, be published in the *Royal Gazette* and one other newspaper of the colony, at least one week before the hearing ; the petition, schedule and affidavit hav-

ing, prior to the publication of the rule or order, been filed in the office of the Clerk of the Supreme Court.

5. Where the application is made to declare a debtor insolvent in an outport, the rule or order for hearing shall be posted up in a conspicuous place at the Court House, and such other place or places for such length of time, or where no Court House, at such place or places and for such a length of time as the Court or Judge may direct.

6. The Court or Judge proceeding under this chapter may, if necessary, direct the examination before an examiner at any place, of any petitioner, debtor, or witness, and for such purpose may postpone or adjourn from time to time the hearing or adjudication of any application to declare a debtor insolvent.

7. The Court or Judge may, upon motion, or with the consent of the petitioner, adjourn the hearing from time to time, if in the opinion of the Court or Judge it may be necessary or advisable so to do in order to satisfy such Court or Judge of the insolvency of the party sought to be declared insolvent; or the Court or Judge may dismiss the petition for want of sufficient evidence of insolvency.

PENAL PROCEEDINGS.

8. The person sought to be declared insolvent, if so declared, shall be liable to punishment by imprisonment in the following cases, for any period not exceeding two years from the time of adjudication: If when insolvent, and with a view of fraudulently giving an undue preference to any creditor or of fraudulently diminishing his assets, he have conveyed, charged, mortgaged or otherwise granted or assigned his property or effects, or any part or parts thereof, or made any gift, delivery or transfer of any of his goods or chattels, or made any payment in money or otherwise, or discharged any debt due from any debtor, or if he have concealed any part of his property, debts or effects, with the intent of diminishing the sum to be divided amongst his creditors; if he have, with intent to conceal the state of his affairs, kept false books or made false entries, or withheld entries from, or wilfully altered or falsified, any books, papers or writings, or have destroyed or otherwise wilfully prevented or purposely withheld, the production of any books, papers, writings or evidence relating to such of his affairs as are subject to investigation under this chapter; or if he have contracted any of his debts by means of a breach of trust, or by means of false pretences, or without having reasonable or probable expectation at the time when contracted of paying the same; or if he

shall have put any creditor to unnecessary expense by the vexatious defence of any action or suit, or shall be indebted for damages recovered in any action for a malicious prosecution, or for libel or slander, or for criminal conversation, or seduction, or assault and battery, or for damages recovered in any action for malicious injury, or in action of tort, where it shall appear that the injury complained of was malicious; or if he shall have done any other act fraudulent towards his creditors: Provided that, in the cases aforesaid where the insolvent shall be indebted for damages, or the matter shall be one of personal wrong, he may be relieved from punishment in the first place, and from his imprisonment at any time within the period of such imprisonment, by the consent of the party aggrieved, or the plaintiff or all the plaintiffs in any action for such damages, if he be not otherwise liable to punishment or imprisonment under this section.

9. After it shall be made to appear to the Court or a Judge that the party sought to be declared insolvent is insolvent, no petition praying that a debtor be declared insolvent under the provisions of this chapter shall be withdrawn or proceedings thereon stayed or prevented if any creditor shall object thereto, except in cases of liquidation or composition as hereinafter provided; and for the purpose of securing the person of any debtor not in prison who may be declared insolvent, the Court or Judge may, at any time before he may have obtained his certificate and final discharge, make a rule or order directed to the Sheriff of the district or any other person to apprehend the person of such debtor and bring him before such Court or Judge to be examined or to receive punishment: Provided that in case such debtor require further time to bring proof, or require other reasonable delay, the Court or a Judge may grant such further time or delay and commit him to prison provisionally, or, upon the debtor providing bail or security for his appearance, discharge him from custody until the expiry of such further time.

EVIDENCE.

10. For the purposes of this chapter the Court or Judge may, either in term or vacation, exercise the like powers for summoning and compelling the attendance of witnesses, the taking of evidence, the ordering of examinations, the issuing of commissions to take evidence, and for the punishment of persons guilty of contempt, as the Supreme Court now exercises in any action or proceeding at law: Provided that in the case of proceedings by or before a Judge under this chapter, there shall be no necessity for the use of a seal, but the name of the Judge, in his handwriting, shall be sufficient.

PREFERENTIAL ASSIGNMENTS, ETC.

11. Every charge, mortgage, conveyance, grant or assignment of the property or effects of an insolvent, or of any part thereof, and every gift, delivery or transfer of any of his goods or chattels, and every payment made by him in money, or otherwise, and every cognovit, warrant of attorney, judgment, or other security whatsoever, paid, made or given by any insolvent within two months prior to his declared insolvency, and with a view to give an undue preference to any creditor, shall be and are hereby declared to be null and void and of no effect in case the person taking or receiving the same, or for whose benefit the same was taken or received, had notice or was aware of the insolvency: Provided that nothing in this chapter contained shall invalidate such charge, grant or assignment, or the gift, delivery or transfer of any goods or chattels, if the same shall, subsequently to the execution or making thereof, have been assigned to or be in the hands or possession of any *bona fide* holder for valuable consideration, not having had notice of the character of such appropriation prior to the transfer to him; but the person or persons first entitled, their executors, administrators and estates, shall be liable to account for the value to the trustees of the estate of the insolvent in such case; and in case they have realized any of the said securities, they shall be liable in an action for money had and received or otherwise; and nothing herein contained shall be construed to confirm or make valid any acts otherwise void.

TRUSTEES.

12. At or any time after the making of the rule or order provided in the fourth section of this chapter, the Court or Judge may make an order which shall be published in the *Royal Gazette* and one other newspaper, vesting the estate of the person sought to be declared insolvent in a trustee or trustees, whose duty it shall be to discover, collect and receive the estates and effects of such person, and to hold the same, subject to the orders and directions of the Court or Judge; and in the event of the person being declared insolvent, to invest, realize, and distribute the same, under the direction of the Court or Judge and the provisions of this chapter; and such trustee or trustees may sue both at law and in equity, in his or their own name, for and upon all causes of action for the benefit of the insolvent estate, in the same way as the insolvent himself might have done; and in any proceeding, it shall be sufficient for them to declare or plead as trustees

of such insolvent, and proceed at once to the statement of the cause of action, without setting out the particulars of their appointment, and as nearly as applicable according to the forms used by executors or administrators: Provided, that in the case of leasehold interests and tenancies, the trustee or trustees shall not be bound to accept the same, but may within one month after the declaration of insolvency notify the landlord, in writing, of his or their intention not to hold as tenant; whereupon his or their interest or liability shall cease; but the estate of the insolvent shall be liable for rent from the time of the appointment of trustees until such notice shall have expired.

13. The trustees or assignees of the estate and effects, or any part thereof, of any debtor, under any conveyance or assignment for the benefit of creditors, shall be liable and compellable to pay out of the first proceeds all creditors who, in case of a declaration of insolvency under this chapter, would have preferential claims; and such trustees or assignees shall also be liable and compellable, unless a majority in number and value of the creditors shall otherwise agree, to distribute such estate and effects according to the provisions of this chapter, as in the case of insolvency, anything in any such conveyance or assignment contained to the contrary notwithstanding; and all such trustees and assignees shall, in the distribution of such estate and effects in such cases, be subject to the order and direction of the Supreme Court or a Judge thereof, as fully and in like manner as the trustees of the estate of any person declared insolvent.

14. The trustee or trustees shall be changed or removed by the Court or Judge, at the instance of a majority in number and value of the creditors, and such person or persons appointed in his or their place as the said majority may recommend; and may also be removed for any sufficient cause appearing to the Court or Judge; and the Court or Judge may require trustees to find sureties for the faithful execution of their office.

15. The trustee or trustees shall be entitled to such compensation, not exceeding five per cent. on the realized value of assets, over and above the actual and reasonable expenses and disbursements, as the Court or Judge may allow.

16. Where, in case a person sought to be declared insolvent is in prison, it shall be deemed expedient by the Court or Judge that certain matters or things ought to be performed by such person before he be actually discharged from custody, the Court or Judge may remand such person to prison until the performance of such matters or things,

or until such further time or times as the hearing may be adjourned to; or such Court or Judge may take bail for the performance of such matters or things within a certain time.

COSTS.

17. The costs of all proceedings whereby the body or any portion of the estate and effects of the insolvent may have been taken or secured before the declaration of insolvency shall be payable out of the estate.

18. The costs of the petitioner, and other costs not herein provided for, shall be in the discretion of the Court or Judge.

19. The costs of creditors proving their debts shall be borne by themselves: Provided that if any creditor give frivolous or vexatious opposition to the claim of another creditor, and cause such other creditor extraordinary expense in the proof of his debt, the dividend of such opposing creditor shall be liable, in the distribution of the estate, for such extraordinary expense.

20. Costs shall be taxed as nearly as applicable, except the costs of a suit at law, according to the practice on the equity side of the Court.

DELIVERY OF PROPERTY.

21. In case any person declared insolvent, or sought to be declared insolvent, shall wilfully refuse to deliver up to the Court or Judge, or to the trustee or trustees, any property, money or effects, deeds, accounts, books, or other documents, pursuant to any order of such Court or Judge, or shall disobey any other order made in the premises by such Court or Judge, such Court or Judge may remand or commit him to prison from time to time until he shall conform to the order of the said Court or Judge.

CERTIFICATE.

22. The Supreme Court or any Judge thereof may, by and with the consent of the majority in number and value of the creditors, grant to any person declared insolvent a certificate of insolvency and discharge, five days previous notice of the application having been given in the *Royal Gazette* and one other newspaper, and to the trustee or trustees; and in any case where such consent shall be refused, the insolvent may apply to the Supreme Court, which may, upon hearing the parties, grant such certificate: Provided, that such insolvent, whether his application be made to a Court or Judge, shall not have been guilty of any such acts as may, or if discovered at the time of the declaration of insolvency would, render him liable to imprisonment or punishment

under this chapter ; and provided he shall have made a full and true discovery, disclosure and delivery of his property and effects under his insolvency, and shall have conformed to the orders and directions of the Court or Judge touching the same, and shall have, if and when required, rendered such information and aid to the trustees, by way of proof or otherwise, in the discovering, collecting, and receiving the estate and effects of the insolvent estate, at the expense of the estate, as shall have been reasonably required by them. Such certificate shall be a release of any judgment recovered and a bar to any action or suit that may at any time thereafter be brought for any debt or liability due or owing at the time of his being declared insolvent, or to become due under any contract previously entered into: Provided, that if the insolvent shall have undergone punishment for any fraudulent or other acts punishable under this chapter, or if he has received the consent of the majority in number and value of his creditors, the Court or Judge, in their or his discretion, may grant him his certificate and final discharge in like manner as in other cases.

23. Nothing herein contained shall discharge an insolvent from rent coming due after such declaration of insolvency under any tenancy originating previously and continued by the insolvent subsequently to such declaration of insolvency.

PRIVILEGED CREDITORS AND DISTRIBUTION OF ESTATE.

24. When it shall be made to appear that the hirer or employer of any seaman, fisherman or other servant is insolvent or unable to pay his creditors one hundred cents in the dollar, such seaman, fisherman or other servant, actually employed in catching, curing or making of fish or oil, and such person as shall have supplied bait to the hirer or employer aforesaid, and who shall be creditors for wages, shares or bait for the current season, shall, upon all such fish and oil taken, cured or made by the hirer or employer aforesaid, or out of the produce or value thereof, if the same be in the possession of the hirer or employer, or of any other person aware of or privy to the hiring or employing of any such seaman, fisherman or other servant, or having notice of the claim of such seaman, fisherman or other servant, whether the same be accruing or due at or before the time of such other person receiving such fish or oil or the produce or value thereof, or before paying the hirer or employer for the same, be considered privileged creditors, and shall first be paid one hundred cents in the dollar, so far as such fish or oil, or the produce or value thereof, shall go.

25. Where such fish and oil shall be insufficient for the full payment

of the wages or shares of all such seamen, fishermen or other servants, or of the persons who shall supply bait as aforesaid, they shall be paid their claims rateably in proportion to their respective wages, shares or bait money.

26. In the case of the supplying merchant, no seamen, fishermen or other servants than those engaged with the knowledge and consent of such supplying merchant, being a receiver, shall be privileged creditors in manner aforesaid, in regard to any supplying merchant, being such receiver, nor in regard to the fish or oil, or the produce or value thereof, in the hands of such receiver. »

27. Any person who may be *bona fide* engaged or shipped in the place of any such seaman, fisherman or other servant who may during the voyage have been discharged, or have left, or deserted, or have died, or have been incapacitated by illness or other cause from continuing his service, shall be a privileged creditor in manner aforesaid, and shall be entitled to claim on the supplying merchant, being such receiver, for the period he may have served in such stead.

28. Any defence which the hirer or employer could have made if the action had been taken against him by such seaman, fisherman or other servant, or supplier of bait, for such wages, share or bait money, shall be equally available for the receiver to make on the trial of any action brought against him by such seaman, fisherman or other servant or supplier of bait, for such wages, share or bait money, or the value of such fish and oil, or any part thereof as aforesaid: Provided that the receiver of the voyage, or any part of the produce or value of same, shall not be liable for the payment of the wages or share of such seaman, fisherman or other servant or supplier of bait, or any part thereof, unless it be proven on the trial that such receiver is liable under the provisions of this chapter: Provided that any shareman selling or lawfully disposing of his share of fish or oil, or any part thereof, may sue and recover payment for same from the purchaser thereof, according to the terms of his contract, before any stipendiary Justice or Court; and any shareman, fisherman or other servant may in like manner sue for and recover his wages or share from his hirer or employer, notwithstanding the provisions of this chapter.

29. To enable such seaman, fisherman or servant, or person supplying bait as aforesaid, to recover the amount of his wages, share or bait money from the receiver of such fish and oil, or the produce or value thereof, it shall not be necessary that the hirer or employer should have been formally declared insolvent; but it will be sufficient,

if it be made to appear on the trial of any action which such seaman, fisherman or other servant or supplier of bait may bring for money had and received, or for wages, against the said receiver, before any stipendiary Justice, Court of Sessions or other Court in this island, that the share, wages or bait money was due at the time of bringing such action, and that the said hirer or employer was then insolvent or unable to pay his creditors one hundred cents in the dollar.

30. If such seaman, fisherman or other servant, or supplier of bait, has knowingly or wilfully colluded with or assisted the hirer or employer in disposing of his voyage otherwise than to his supplying merchant, such supplying merchant not being paid to the extent of his supplies over and above the unpaid wages or bait money at the time of the action being brought, such seaman, fisherman or other servant or supplier of bait, shall not be entitled to recover in any action brought against any receiver, being a supplying merchant.

31. Nothing herein contained shall prevent such seaman, fisherman or other servant, from recovering such share or wages from any person other than the supplying merchant who may have received such voyage or any part thereof, and who would be otherwise liable under this chapter.

32. The estates of persons declared insolvent shall, after the payment of costs and expenses, be distributed rateably amongst the creditors, except in the cases herein provided for.

33. In the distribution of the estate of any person declared insolvent, all clerks' and servants' wages for the current year, up to the period of the declaration of insolvency, and also in the event of any receiver or supplying merchant being declared insolvent, any seaman, fisherman, or other servant, or supplier of bait, as aforesaid, who may be a privileged creditor under the twenty-fourth section of this chapter, to the extent of his rateable proportion, as aforesaid, of the fish or oil, or the produce or value thereof, shall be privileged creditors, and shall be co-equally entitled to recover and receive one hundred cents in the dollar out of the estate and effects of the person declared insolvent.

34. Next after preferable payments provided for in the preceding sections of this chapter, all debts and claims due to the Crown or to the Government or revenues of this colony, shall form a prior claim upon the estate and effects of any person declared insolvent, and shall be first paid so far as such estates and effects will go; and all moneys deposited by or on account of the Newfoundland Savings' Bank in any bank or banking company, or received or collected by such bank or

banking company, for or on account of the said Savings' Bank, shall constitute a crown debt, and form a prior claim on such bank or banking company, and upon its property, estate and effects in the case of the insolvency of such bank or banking company, and may be sued for and recovered in the name of her Majesty, or the Receiver General or Attorney General of this island: Provided that nothing herein contained shall affect the provisions of the one hundred and second section of chapter forty-nine of these consolidated statutes, entitled "Of the Customs, Warehouses, Distilleries, &c."

35. After the payment of preferable claimants under the foregoing sections of this chapter, every creditor for supplies necessarily and *bona fide* furnished for the prosecution of the fishery during the current season, that is to say, at any time after the close of the last preceding season of the fishery, shall be a privileged creditor, and shall be paid one hundred cents in the dollar, so far as the insolvent estate will go.

INSOLVENCY OF DECEASED PERSONS.

36. When any person shall die in this island or elsewhere leaving estates and effects in this island or in any place within the Government thereof, and such estates and effects shall not be sufficient to pay and satisfy all his just debts, the Supreme Court or any Judge thereof may, either in term or vacation, on the petition of the executor, administrator, or a creditor of such deceased person, to be made in writing and upon oath and laid before the said Court or any Judge thereof, by which it shall appear to the Court or the said Judge before whom such statement shall be laid that the estate or effects of such deceased person are not sufficient to pay all his just debts, authorize the executor or administrator of such deceased person, or, if they shall see cause, any trustee or trustees whom they may appoint, to collect and to distribute the estate and effects amongst his creditors, according to the manner of distribution by law directed to be made in respect to the estates of persons declared insolvent, subject in all cases to the provisions of this chapter: Provided that nothing herein contained shall be construed to affect the right of any creditor of such deceased person to recover the full amount of such debts as may have been *bona fide* secured in the lifetime of such deceased person by mortgage or other legal conveyance of any portion of the estate or effects of such deceased person, and not void under the foregoing provisions of this chapter; and also, that the like course shall be pursued with

the estate and effects of any persons dying insolvent, where no executor or administrator thereof has been appointed or resides in this island, on the application of any creditor to the said Court or any Judge thereof, who may appoint trustees or receivers of such estates and effects, to realize and distribute the same as aforesaid, subject to the orders and control of the Court or Judge.

REFERENCE OF CLAIMS.

37. The Court or Judge acting under the provisions of this chapter may make any order of reference to the master or other person to investigate and report upon claims, accounts and other matters, whether on behalf of or against the insolvent estate; and the decision to be come to thereon shall be as binding between the parties as an action at law or suit in equity, and may be pleaded in bar of any other proceeding.

APPEAL.

38. Any person feeling himself aggrieved by the decision of a Judge in chambers or sitting alone in the Supreme Court, and proceeding under the provisions of this chapter, may have a rehearing in manner provided by the third section of chapter nine of these consolidated statutes, entitled "Of the Supreme Court and the Judges, officers, sessions and circuits thereof," upon such terms (if any) as the said Judge may impose; and the judgment on such rehearing shall be enforced by the Supreme Court.

JUDGE MAY MAKE FURTHER ORDERS.

39. In any case or matter within the provisions of this chapter in which the Court or a Judge may deem it necessary to make any rule or order, whether hereinbefore provided for or not, for the effectual carrying out of the provisions of this chapter, the Court or Judge may make such rule or order; and any person disobeying the same shall be deemed guilty of contempt, and may be proceeded against and punished therefor by the Court or Judge, either in term, in vacation, or in chambers.

PERJURY.

40. Any person who, in his examination upon oath or affirmation, or who in any affidavit in any proceeding under this chapter, shall wilfully and corruptly give false evidence, or swear or affirm anything which shall be false, shall be deemed guilty of wilful and corrupt per-

jury, and be liable to be indicted therefor, and upon conviction shall be liable to the penalties of wilful and corrupt perjury.

TRIAL BY JURY.

41. For the purpose of trying any question of fact arising under the eleventh section of this chapter, the Court or Judge may empanel a jury according to the provisions of the laws now or hereafter to be in force for regulating trial by jury: Provided that nothing herein contained shall prevent the Court or Judge from determining any questions of fact.

ARRANGEMENTS AND COMPOSITIONS.

42. At any time after petition filed, praying for a declaration of insolvency, and before the close or winding up of the estate of any insolvent, the Supreme Court or a Judge thereof may, on proof to its or his satisfaction that either before or since the filing of such petition an arrangement by liquidation or for a composition has been entered into by the debtor, and two-thirds in number and value of his creditors resident or having a house of business in Newfoundland, and of two-thirds of his creditors resident elsewhere, or of three-fourths of the whole of such creditors in number and value, make an order dissolving the proceedings in insolvency, or staying such proceedings, or the realization or winding up of the estate of the debtor, either altogether or for a limited time, on such terms and subject to such conditions as the Court or Judge may think fit, or from time to time determine; and all creditors shall be bound thereby.

43. Under the provisions of the foregoing section, the trustee in insolvency may be relieved in whole or in part, altogether or temporarily, from his place and responsibility; and it may be made part of the terms and conditions aforesaid that the person or persons to manage and supervise the estate of the debtor, and the debtor himself, shall be liable to the order and direction of the Court or of the Judge during the carrying out of the liquidation or composition, or otherwise as the case may be.

44. The rights of creditors preferential by law shall be prior claims, as in case of distribution under proceedings in insolvency.

45. In calculating the two-thirds or three-fourths (as the case may be) in number and value of the creditors as in the forty-second section provided, creditors whose debts do not exceed twenty dollars shall be reckoned in the value but not in the number; and such shall be the mode of calculation for any votes or consent of creditors which may

become necessary under any orders of the Court or Judge under this chapter. Preferential creditors to the extent of their prior claims shall not count at all unless they shall have consented to rank as ordinary creditors for such preferential claims, or unless the whole estate be insufficient for payment of preferential debts.

46. An arrangement or composition acted upon by the Court or a Judge in manner aforesaid shall at any time, with leave of the Court or Judge, be equivalent to and have the same effect as a certificate of insolvency and discharge, and the facts may be certified in writing to the debtor by the Court or Judge or the Clerk of the Court, under the seal of the Court, or otherwise, in a document to be called a certificate of composition or of arrangement, or otherwise as the case may be, and shall be conclusive evidence of the fact of discharge: Provided that such documents and certificates in insolvency shall be recorded in the office of the registrar of the Court before which the petitioner may be declared insolvent, and if before a Judge, in the office of the registrar of the Supreme Court.

47. Nothing in this chapter contained shall affect or operate to change the liability of any person secondarily liable to any creditor for the debts of the insolvent, either as drawer or endorser of negotiable paper, or as guarantor, surety, or otherwise; nor of any partner or other person liable jointly or severally with the insolvent to such creditor for any debt; nor shall it affect any mortgage, lien, collateral or other security, held by any such creditor as security for any debt: Provided that the person secondarily liable shall not be bound by the acts of such creditor unless with his assent, or unless such person shall have himself been declared insolvent or shall have assigned his property for the benefit of his creditors, or entered into a composition or arrangement.

DISTRAINT.

48. The landlord or other person to whom any rent is due from the debtor, at any time before or after the appointment of a trustee under a petition for declaration of insolvency of such debtor, may distrain upon the goods or effects of the debtor for the rent so due to him: Provided that if such distress for rent be levied after the appointment of a trustee as aforesaid, or after an arrangement or composition being acted upon by the Court or Judge in manner aforesaid, or if such distress having been levied before such appointment or before arrangement or composition being acted upon in manner aforesaid, the goods distrained shall not have been lawfully sold under the distress at the

time of such appointment or arrangement or composition being acted upon as aforesaid, then such distress shall be available in case of declaration of insolvency or arrangement or composition acted upon as aforesaid only for one year's rent accrued due prior to the date of such appointment or of such arrangement or composition being acted upon as aforesaid, but the surplus shall be proveable as an ordinary debt under insolvency, composition or arrangement aforesaid.

DIVIDENDS.

49. When any rent or other payment falls due at stated periods, and the declaration of insolvency is ordered at any time other than one of such periods, the person entitled may prove for a proportionate part thereof up to the declaration of insolvency, as if such rent or payment grew due from day to day.

50. In a calculation and distribution of a dividend the trustee shall make provision for debts proveable, appearing from the insolvent's statements or otherwise, to be due to persons resident in places so distant from the place where the trustee is acting that in the ordinary course of communication they have not had sufficient time to tender their proofs or to establish them if disputed, and also for debts proveable in insolvency, the subject of claims not yet determined.

51. Any creditor who has not proved his debt before the declaration of any dividend or dividends shall be entitled to be paid out of any moneys for the time being in the hands of the trustee; any dividend or dividends he may have failed to receive before such moneys are made applicable to the payment of any future dividend or dividends; but he shall not be entitled to disturb the distribution of any dividend declared before his debt was proved, by reason that he has not participated therein.

52. Any creditor holding a specific security on the property of the insolvent or joint insolvent, if more than one or any part thereof, may, on giving up his security, prove for his whole debt. He shall be entitled to a dividend in respect to the balance due to him after realizing or giving credit for the value of his security, to be ascertained, if necessary, in manner to be prescribed by the Court or Judge. A creditor holding such security, and not complying with the foregoing conditions, shall be excluded from all share in any dividend.

JURISDICTION.

53. Notwithstanding that a petition for a declaration of insolvency may be directed to the Court or a Judge particularly named in said

petition, it may, where expedient, by reason of the illness or absence of the Judge from the judicial district in which proceedings have been commenced, or other sufficient cause, be proceeded upon by any Judge of the Supreme Court; and any Judge other than the Judge before whom proceedings in insolvency may have been commenced, or when such proceedings have been commenced before the Court, may hear and adjudicate upon matters arising subsequently in the same insolvency and not already heard and determined by the first-named Judge or the Court. The Supreme Court in St. John's shall have like powers where such proceedings have been commenced before a Judge or the Court on circuit.

54. A Judge hearing proceedings in insolvency shall be deemed a Court of Record, and may enforce his orders in the same manner.

CHAPTER 91.

OF THE COMPROMISES OF PARTNERS AND JOINT DEBTORS.

SECTION

- 1—Compromises of one or more partners of firms with creditors.
- 2—Memorandum of release or compromise.
- 3—Responsibility and right of the other co-partners.

SECTION

- 4—Liability of party compromising to contribute.
- 5—Preceding provisions extended to joint debtors.

1. Whenever any co-partnership firm shall be dissolved by mutual consent or otherwise, any one or more of the individuals who was or were embraced in such co-partnership firm may make a separate composition or compromise with any one or all of the creditors of such co-partnership firm; and such composition or compromise shall be a full and effectual discharge to the debtor or debtors making the same, and to them only, of and from all and every liability to the creditor or creditors with whom the same is made or incurred by reason of his or their connection with such co-partnership firm.

2. Every such debtor or debtors making such composition or compromise shall take from the creditor or creditors with whom he may make the same a note or memorandum in writing, exonerating him or them from all and every individual liability incurred by reason of such connection with such co-partnership firm, which note or memo-

randum may be given in evidence by such debtor or debtors under the general issue in bar of such creditors' right of recovery against him or them ; and if such liability shall be by judgment in any Court of Record in this island, then on a production to and filing with the clerk thereof the said note or memorandum in writing, duly acknowledged by the party or parties making the same, in the same manner as satisfaction of judgment is now required by law to be acknowledged, such clerk shall discharge said judgment of record so far as the said compromising debtor or debtors shall be concerned.

3. Such compromise or composition with an individual member of a firm shall not discharge the other co-partners, nor shall it impair the rights of the creditor to proceed at law or in equity against the members of such co-partnership firm as have not been discharged. The member or members of such co-partnership firm so proceeded against shall be permitted to set off any demand against the said creditor or creditors which could have been set off had such suit been brought against all the individuals composing such firm ; nor shall such compromise or discharge of an individual of a firm prevent the other members of such firm from availing themselves of any defence at law or equity that would have been available had not this chapter been passed, except that they shall not set up the discharge of one individual as a discharge of the other co-partners, unless it shall appear that all were intended to be discharged.

4. Such compromise or composition of an individual of a firm with a creditor of such firm shall in nowise affect the rights of the other co-partners to call on the individual making such compromise for his rateable proportion of such co-partnership debt, the same as if this chapter had not been passed.

5. The above provisions in reference to co-partners of a firm shall extend to joint debtors, who may individually compound or compromise for their joint indebtedness, with the like effect in reference to creditors and to joint debtors of the individuals so compromising as is above provided in reference to co-partners.

CHAPTER 92.

OF THE CURRENCY.

SECTION

- 1—Denomination of money.
- 2—Value of sovereign.
- 3—Value of gold eagle.
- 4—Value of British silver coins.
- 5—Value of foreign gold.
- 6—Value of dollars, &c.
- 7—Government may import copper or bronze coins. Amount of tender in cents and half cents. Copper currency in circulation.

SECTION

- 8—Gold and silver coins, dollars, &c., may be struck.
- 9—Foreign coins may be declared current by proclamation.
- 10—Gold tenders by tale, &c.
- 11—Existing liabilities, how discharged.
- 12—Future contracts.
- 13—Penalty for counterfeiting coin.
- 14—Penalty for uttering false coin.

1. The denomination of money in the currency of this colony shall be dollars and cents, in which currency the cent shall be the one hundredth part of a dollar ; and all public accounts shall be kept, all public moneys paid and received, all verdicts received and judgments entered and other legal proceedings taken in such currency.

2. The British sovereign of lawful weight shall be held to be equal to and shall be a legal tender and pass current for four dollars and eighty cents currency ; and all parts of the sovereign shall pass current and be a legal tender in currency after the like rate, according to the proportion they respectively bear to the sovereign.

3. The gold eagle of the United States, coined after the first July, eighteen hundred and thirty-four, and while the standard of fineness for gold coins then fixed by the laws of the United States remains unchanged, and weighing ten penny-weights eighteen grains, troy weight, shall pass current and be a legal tender for nine dollars and eighty-five cents currency ; and all multiples and parts of such eagle of like date and proportionate weight shall pass current and be a legal tender in currency after the like rate, according to the proportion they respectively bear to the eagle.

4. The silver coins of the United Kingdom, while lawfully current therein, shall pass current and be legal tender for sums in currency after the rate fixed as aforesaid for the gold coins of the United Kingdom, according to the proportion such silver coins bear to such gold coins : Provided that no tender in silver coin to a greater amount than ten dollars shall be valid.

5. The foreign gold coin called the doubloon, containing three hun-

dred and sixty-two grains of pure gold, shall pass and be a legal tender in currency for fifteen dollars and thirty-five cents.

6. The American, Peruvian, Mexican, Columbian and old Spanish dollars, being of the full weight of four hundred and sixteen grains, and containing not less than three hundred and seventy-three grains of pure silver, shall pass current and shall be a legal tender at the rate of one hundred cents each; and the several divisions of such coins shall pass current and be a legal tender in currency after the like rate, according to the proportion such divisions shall respectively bear to the coins of which they are parts: Provided that no tender of such coins to a greater amount than ten dollars shall be valid.

7. The Governor in Council may obtain and import such quantity of copper or bronze cents and half cents as may be necessary for the purposes of this chapter, which cents and half cents shall be a legal tender for any amount not exceeding twenty-five cents; no other copper or bronze coins, other than British sterling pence and halfpence of bronze, and the said bronze or copper cents, imported as aforesaid, shall pass current in this colony.

8. Such gold and silver coins, representing dollars or multiples or divisions of the dollar currency as her Majesty shall see fit to direct to be struck for that purpose, shall by such names, and at such rates, and for such amounts, as her Majesty by her proclamation shall assign, pass current and be a legal tender in this colony; the standard of fineness of such coins being the same as that now adopted for coins of the United Kingdom, and their intrinsic value bearing the same proportion to their current value as British coins respectively bear to their current value under this chapter.

9. Her Majesty may at any time declare, by proclamation, that any other gold or silver coins of any foreign state shall, when of the weights assigned therein, pass current and be a legal tender at rates in currency to be assigned to them respectively in such proclamation, such rates being proportionate to the quantity of pure gold and silver contained in such coins, as compared with the rates of British coins current under this chapter.

10. Gold coins, current under this chapter, shall be a legal tender by tale, so long as they shall not want more than two grains of the weight assigned to them by this chapter, or by her Majesty's proclamations: Provided that in any one payment above two hundred dollars the person paying may pay, or the person receiving may insist on receiving, the said British gold coins by weight, at the rate of eighteen

dollars and sixty-nine and a half cents per ounce troy, and the said gold coins of the United States by weight, at the rate of eighteen dollars thirty-two nine-sixteenths of a cent per ounce troy.

11. All existing liabilities, whether under act of the Legislature, judgment, rule or order of a Court of Judicature, or private contract, shall be discharged as follows: The pound of present currency by payment of four dollars; the pound of local sterling (equal to twenty-three-shillings and twelve-thirteenths of a penny of present currency) by payment of four dollars and sixty-one cents; and the pound British sterling (equal to twenty-four shillings of present currency) by payment of four dollars and eighty cents. Nothing in this chapter contained shall affect the rights of parties claiming local sterling or British sterling under any act of the Legislature or private contract now subsisting.

12. In all contracts made after the twenty-fifth day of March in the year one thousand eight hundred and sixty-three the term pound shall mean and be equivalent to four dollars currency, and the term pound sterling shall mean and be equivalent to four dollars and eighty cents currency.

13. Any person who shall falsely make or counterfeit any coin resembling or apparently intended to resemble or pass for any gold or silver coin current under or by virtue of this chapter or any proclamation thereunder, or who shall import into this colony any such false or counterfeit coin, shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to transportation beyond seas for life or for any term not less than seven years, or to be imprisoned, with hard labor, for any term not exceeding four years; and every such offence shall be deemed to be complete, although the coin so made or counterfeited shall not be in a fit state to be uttered, or the counterfeiting thereof shall not be finished or perfected.

14. Any person who shall tender, utter, or put off any such false or counterfeit coin, knowing the same to be false or counterfeit, shall be guilty of a misdemeanor, and, being convicted thereof, shall be imprisoned with hard labor for any term not exceeding one year.

CHAPTER 93.

OF WEIGHTS AND MEASURES, AND THE INSPECTION OF LUMBER.

SECTION

- 1—Standard of weights and measures.
- 2—Standard sets to be kept by Receiver General—duplicates.
- 3—Governor to appoint persons to prove duplicates—marking.
- 4—Governor to appoint inspectors of weights and measures.
- 5—Inspector to adjust and mark weights, &c.
- 6—Weights, &c., to be sent to inspector if requiring adjustment.
- 7—Inspector may condemn old measures, &c.
- 8—Penalty for counterfeiting inspector's mark or using condemned measures.
- 9—Inspector to visit places of business once in three months, and inspect weights. Penalty for short weights.
- 10—Use of steelyards and wooden beams unlawful.
- 11—Penalty for using weights and measures not marked.
- 12—Standard weight of grain, &c.
- 13—Ditto of vegetables and seeds.
- 14—Bushel to mean bushel by weight.

SECTION

- 15—Salt to be sold by weight.
- 16—Coals to be sold by weight—exception.
- 17—Fresh meat and hay.
- 18—Standard weight of loaves of bread—penalty. Prosecutions to be commenced within three days.
- 19—Standard weight of biscuit, flour, pork, &c.
- 20—Regulation for sale.
- 21—Fresh herring when sold by barrel to contain 32 gallons. Barrel to be inspected and stamped.
- 22—Gauging rods to be same as used in Customs.
- 23—Surveyors of lumber.
- 24—Their duties.
- 25—Size of shingles.
- 26—Penalty where surveyor of lumber neglects duty, &c.
- 27—Penalty for selling lumber unsurveyed, &c.
- 28—Fees payable to inspectors of weights and surveyors of lumber.
- 29—Offenders may be imprisoned.
- 30—Penalties and mode of recovery.

1. All weights and measures used in this colony shall be according to the standard established by an act passed in the parliament of Great Britain and Ireland, in the fifth year of the reign of his late Majesty king George the fourth, entitled "An act for ascertaining and establishing the uniformity of weights and measures."

2. A complete and properly verified set of the said weights and measures shall be kept by the Receiver General in the Customs department, and shall constitute the standard by which all weights and measures shall be tried, proved and stamped, and the Receiver General shall cause duplicates thereof to be made as the Governor in Council shall deem necessary, for the use of the inspectors to be appointed under this chapter or otherwise for the use of the colony.

3. The Governor in Council shall appoint a person to prove all duplicates, which, when proved and marked with the letters V. R. or the

initials of the then reigning monarch, and the letters N. F. L., together with the initials of the person proving the same, shall be held as standards.

4. The Governor in Council shall appoint persons to be inspectors of weights and measures in such places as may be deemed necessary, and each of such inspectors shall be sworn before a Justice faithfully to discharge his duty, and whilst in office he shall be provided with a duplicate or standard set of weights and measures.

5. The inspector shall, when required, inspect and adjust all beams, weights and measures brought to his office according to the said standard, and he shall stamp or mark thereon the letters V. R. or the initials of the then reigning sovereign, and also his own proper initials.

6. When any beams, scales, weights or measures, capable of being removed and sent to the office of the inspector shall require adjustment, they shall be sent by the owner to such office for that purpose.

7. The inspector shall condemn all liquid and dry measures that may require repairs, and all beams, weights and scales that are deteriorated from age, or otherwise incapable of being adjusted, and efface the inspector's mark thereon.

8. Any person who shall counterfeit the marking or stamping of the inspector on any beam, scale, weight or measure, or shall use any such beam, scale, weight or measure when condemned, shall forfeit and pay a penalty not exceeding forty dollars.

9. The inspector shall, with or without constables, in the day time, once in three months, or oftener if he shall see cause, visit all places of business and vessels where any commodity is sold or exchanged by weight or measure, and inspect all beams, scales, weights and measures, and seize all such as are not marked as aforesaid; and any person refusing admission to such inspector, or obstructing such inspection, shall forfeit a sum not exceeding forty dollars; and upon proof that any beam, weight or measure so seized is short of or exceeds the standard, the person having the same in his possession shall forfeit a sum not exceeding twenty dollars.

10. The use of steelyards, except for the weighing of hay or straw, and the use of wooden beams for weighing, is hereby declared to be unlawful.

11. Any person who shall use a beam, scale, weight or measure, in the sale or exchange of any commodity not assayed and stamped or marked as aforesaid, or who shall alter the same after being so assayed, stamped or marked, or who shall use steelyards, except for the pur-

pose of weighing hay or straw, or who shall use a beam made of wood, shall forfeit a sum not exceeding twenty dollars.

12. The standard weight of each imperial bushel of grain exposed or offered for sale in this colony shall be as follows :

Wheat shall weigh sixty pounds.

Rye shall weigh fifty-six pounds.

Indian corn shall weigh fifty-seven pounds.

Barley shall weigh forty-eight pounds.

Oats shall weigh thirty-eight pounds.

Pease shall weigh sixty pounds.

Beans shall weigh sixty pounds.

All such grain shall be of dry, sound quality, and all such weights shall be avoirdupois.

13. The following shall be the standard weights which in all cases shall be held to be equal to the imperial bushel of the articles opposite to which they are respectively set, namely :

Potatoes, turnips, carrots, parsneps, beets and onions, sixty pounds.

Flax seed, fifty pounds.

Hemp seed, forty-four pounds.

And when any of the articles aforesaid shall be sold by the barrel, every such barrel shall contain at least three bushels of the weight aforesaid. All such potatoes, turnips, carrots, beets and onions and other articles above mentioned shall be in sound condition, and all such weights shall be avoirdupois.

14. Upon any sale and delivery of any description of grain, pulse or seeds or other articles mentioned in this chapter, and in every contract for the sale or delivery of any such grain, pulse, seeds or other articles, the bushel shall be taken and intended to mean the weight of a bushel as regulated by this chapter, and not a bushel in measure or according to any greater or less weight.

15. Salt shall be sold by weight and not by measure ; and any person who shall sell or dispose of salt otherwise than according to the standard of weight hereby established, shall forfeit a sum not exceeding twenty dollars.

16. Coals shall be sold by weight, and each ton shall contain two thousand two hundred and forty pounds ; or, at the option of the purchaser, coals may be sold by measures containing respectively two hundred and twenty-four pounds and five hundred and sixty pounds avoirdupois of dry coal, struck or water measure, under a penalty not exceeding ten dollars : Provided that this section shall not apply to

the sale of a cargo of coal when the same may be sold wholesale by the chaldron.

17. All fresh meats imported for sale, and all hay imported for sale in screwed or pressed packages, shall be weighed by the vendor, who shall attach to each piece of meat and package of hay a ticket marked with the weight thereof; and such meats and packages purchased shall be re-weighed by the vendor in the presence of the purchaser, if desired, at the time of delivery, under a penalty of not exceeding ten dollars for each refusal so to do.

18. Loaves of bread intended for sale shall be made of the following weights, namely: four pounds, two pounds, one pound, and eight ounces, and shall have stamped or marked thereon the initials of the maker and the weight of the loaf; and the vendor of bread shall keep a scale and weights, and shall, if required, weigh the bread for the satisfaction of the purchaser; and bread offered for sale of short weight shall be forfeited and may be seized by the purchaser or intending purchaser, or any peace officer, and delivered to any Justice, who shall dispose of the same for the benefit of the poor: Provided that this section shall not apply to loaves made to order and rasped by the desire of the customer, nor to loaves or cakes weighing less than eight ounces. Prosecutions for breach of this section shall be commenced within three days after the offence shall have been committed.

19. The following shall be the standard net weight of articles or provisions, whether imported into or produced or manufactured in this colony, and offered for sale, namely:

Biscuit, the bag, one hundred and twelve pounds; the half bag fifty-six pounds.

Flour, corn meal and oatmeal, the barrel, one hundred and ninety-six pounds; the half barrel ninety-eight pounds.

Pork, beef and jowls, the barrel, two hundred pounds; the half barrel one hundred pounds.

20. Purchasers of the articles enumerated in the foregoing section may demand that the same be weighed by the vendor, and if any be found of less than the standard net weight there shall be a proportionate deduction made by the vendor in the price agreed upon; and purchasers of butter, imported into or made in this colony may demand that the same be weighed at the time of purchase by the vendor, who shall make a fair allowance for weight of packages; and if any vendor shall refuse to weigh any of the said articles when requested, or to make a reduction in the price where there ought to

be a reduction in accordance with the provisions of this section, he shall be liable to a penalty not exceeding twenty dollars.

21. When fresh herrings are bought or sold by the barrel, every such barrel shall be capable of containing thirty-two gallons water or struck measure; and every such barrel, used as a measure, shall be inspected and stamped by an inspector of weights and measures.

22. Gauging rods used in the gauging of oil, spirits or other liquids shall be of the same size, dimensions and description as those used in her Majesty's Customs, and no other.

23. The Governor in Council shall appoint persons to be surveyors of lumber, who shall, previously to their entering upon the duties of their office, give security to her Majesty, and shall be sworn before a Justice faithfully to discharge the duties of such office.

24. The duties of such surveyors of lumber shall be to survey and measure upon request made by the vendor or importer of all timber, plank and lumber, imported into or the produce of this colony which may be offered for sale, and to mark the quantity therein upon each piece, and such as shall not be merchantable to mark thereon the letter R., (for "refuse"); and also upon the like request to survey all shingles made in or imported into this colony and offered for sale, and to mark each bundle of shingles which shall not be of standard size with the letter R. (for "refuse.")

25. The standard size of each shingle shall be eighteen inches long, and of each bundle of shingles shall be twenty inches wide and twenty-five tiers high, well and closely packed; and if any shingles shall be falsely or fraudulently packed they shall be forfeited; and all shingles marked with the letter R. by the surveyor of lumber shall be sold as refuse.

26. If a surveyor of lumber shall, after having received twelve hours' notice from the importer or vendor, requiring such surveyor to survey or measure any timber, plank, lumber or shingles, refuse or neglect so to do, (unless unavoidably prevented by sickness or by being employed in the survey of timber, plank, lumber or shingles elsewhere,) he shall be liable to a penalty not exceeding twenty-five dollars; and if any surveyor of lumber shall be unfaithful or negligent in the discharge of his duty he shall be liable to a penalty not exceeding one hundred dollars, and shall be incapable of acting as a surveyor of lumber thereafter; and if any person shall act as a surveyor of lumber, except he be appointed in manner aforesaid, he shall be liable to a penalty not exceeding forty dollars for each offence.

27. If any person shall deliver or cause to be delivered any timber, plank, lumber or shingles, being sold by admeasurement, before the same shall have been surveyed by a duly appointed surveyor of lumber, such person shall be subject to a penalty not exceeding twenty-five dollars for each offence.

28. Inspectors of weights and measures appointed under this chapter shall be entitled, in addition to any salaries paid them by the Government, to receive from the owners of weights and measures the following fees for all weights and measures assayed and marked as aforesaid, namely :

Five cents each for weights of and under one pound.

Ten cents each for weights over one pound.

Ten cents for a beam and scale, and ten cents for a measure :

Provided that such fees shall be demanded and payable only once in each year.

Surveyors of lumber appointed under this chapter shall be entitled to receive from the vendors or importers of all timber, plank, lumber, and shingles, surveyed and measured or marked as aforesaid, the following fees, namely :

For every ton of timber, twenty-five cents.

For every thousand superficial feet of plank, board or lumber, thirty-eight cents.

And for every thousand shingles, five cents.

29. Any person offending against any of the provisions of this chapter, where no specific penalty is prescribed, shall, for each offence, be liable to a penalty not exceeding twenty dollars, and in all cases on default of payment, where no imprisonment is mentioned, may be imprisoned for a period not exceeding fourteen days.

30. All penalties and forfeitures under this chapter may be recovered, together with costs, in a summary way, before a Justice ; and where not otherwise herein provided for, one-half of such penalties and forfeitures shall be paid to the party prosecuting the offender to conviction, and the other half shall be paid to the Receiver General for the use of the colony.

CHAPTER 94.

OF THE RATE OF INTEREST.

SECTION

1—Interest at six per cent may be charged on sums or debts due under written contracts.

SECTION

2—Interest from insolvent estates.

1. Upon all debts or sums certain, payable at a certain time or otherwise, the jury on the trial of any issue or on any inquisition of damages may allow interest to the creditor at a rate not exceeding six dollars for the forbearance of one hundred dollars for a year, and so after that rate for a greater or less sum or for a longer or shorter time from the time when such debts or sums certain were payable; if such debts or sums be payable by virtue of some written instrument, at a certain time, or if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the time of payment: Provided that interest at the rate of six dollars per centum per annum as aforesaid shall be payable in all cases arising in this island in which interest is now payable in law.

2. No claim for interest, exceeding six dollars per centum per annum, shall be recoverable against any insolvent estate in this island.

CHAPTER 95.

OF PROTESTED BILLS OF EXCHANGE.

SECTION

1—Charges on protested bills drawn on persons residing in the North American or West Indian colonies.

SECTION

2—On persons residing elsewhere.
3—On persons residing in this colony.

1. Bills of exchange drawn in this island or its dependencies upon persons residing in any of her Majesty's colonies in America or the West Indies, and which may be sent back protested, shall be subject to five dollars per centum damages and six dollars per centum per annum interest, from the day of the date of the protest on such bills to the time of payment.

2. Bills of exchange drawn in this island or its dependencies upon persons residing in any other place than in the said colonies, and which may be sent back protested, shall be subject to seven and a half dollars per centum damages, and six dollars per centum per annum interest, from the day of the date of the protest to the time of payment.

3. All bills and orders drawn in this island or its dependencies upon persons living or residing in the same, and which may be protested or refused payment, shall be subject to six dollars per centum per annum interest, from the date of such protest or refusal to the time of payment.

CHAPTER 96.

OF CULLING OF CODFISH.

SECTION 1—Culler to be sworn.

1. No person shall cull codfish as between buyer and seller, so as to bind the parties to such cull, unless such person shall have been previously sworn before a stipendiary Justice, faithfully and without fear, favor or affection to discharge the duties of a fish culler, except when such buyer and seller may agree to employ an unsworn culler.



TITLE XXVI.

Of Ships and Shipping, &c.

CHAPTER 97.

OF SURVEYORS OF SHIPPING AND REGISTRY OF SHIPS,

SECTION

1—Governor, may appoint registrars of shipping.

2—Surveyors of shipping. Fees.

SECTION

3—Change of master to be endorsed on register.

4—So much of Merchants' Shipping Act, 1854, as is inconsistent with this chapter repealed.

1. The Governor in Council may appoint, for every port or place at

which it may be deemed expedient to authorize the registry of ships, the principal officer of Customs at such port or place in this island and its dependencies to be a registrar for all the purposes contemplated by the statutes of the Parliament of Great Britain and Ireland relating to merchant shipping.

2. The Governor in Council may appoint, at any port or place in this island and its dependencies, an officer to superintend the survey and measurement of ships in conformity with said statutes; and such officer shall be entitled to recover from the owner fees for the measurement of every vessel about to be registered for the first time, or requiring measurement for the purposes of registry, as follows:

One dollar and eighty cents for vessels under fifty tons, and measured in three sections;

Three dollars for vessels under fifty tons, and measured in five sections;

Three dollars for vessels from fifty to one hundred tons;

Six dollars for vessels over one hundred tons; and reasonable travelling expenses, not exceeding twenty-five cents per mile necessarily travelled.

3. Any Assistant Collector, sub-Collector, or Preventive officer, shall have the same power to endorse on the certificate of registry of any ship, at any port where such ship may be, any change of master taking place at that port, as is given to registrars of shipping under this chapter, and the act of the said Parliament known as the "Merchant Shipping Act, 1854."

4. So much of the said "Merchant Shipping Act, 1854," as is inconsistent with this chapter, is hereby repealed as to ships registered in this colony.

CHAPTER 98.

OF THE MERCHANT SHIPPING SERVICE, AND DESERTION FROM THE
ROYAL NAVY.

SECTION

1—Ships registered in this colony, their owners, &c., to be subject to the shipping laws of Great Britain, as to agreements, wages, &c.

SECTION

2—Deserters from the Royal Navy.
3—Hospital dues.

1. Sea-going ships registered in this colony, their owners, masters and crews, and all other persons in relation thereto, when and while such ships, owners, masters, crews and persons are within this colony, shall (so far as the same can be applied) be subject in respect of shipping and discharge, agreements, wages and effects, rights, remedies and penalties, to the law for the time being of Great Britain concerning colonial British registered ships when in the United Kingdom or out of the jurisdiction of their respective Governments, as the case may be: Provided, that no amendment or alteration of the present law of Great Britain in regard to the matters aforesaid shall, for the purposes of this chapter, apply to this colony until six months after the passing of such amendment or alteration, and in the meantime the law as it previously stood shall apply and be executed in this colony.

2. A reward of fourteen dollars shall be paid by warrant of the Governor on the Receiver General to any person for the apprehension of any deserter from any ship belonging to the Royal Navy, upon producing a certificate of the Commander or chief officer of any such ship, or of any stipendiary Magistrate, stating that such deserter has been delivered to him, and all persons may apprehend such deserter without warrant.

3. The master or owner of every vessel registered in this colony, and sailing on foreign voyages, shall, before the entry inwards of such vessel at the Customs at the port of St. John's, pay to the Receiver General the sum of twelve cents per month for every seaman on board such vessel, to be applied towards the support of the St. John's Hospital, and the master or owner paying such amount may retain the same from the wages due to such seaman.

CHAPTER 99.

OF A MARINE COURT OF ENQUIRY.

SECTION

- 1.—Governor to commission five persons as marine court of enquiry. President. Form of proceedings.
- 2.—Jurisdiction.
- 3.—Impeding inspection. Penalty.
- 4.—Power of summoning witnesses, regulating the proceedings, and enforcing penalties.

SECTION

- 5.—Governor may appoint persons at other places to make enquiries, &c.
- 6.—Orders respecting costs.
- 7.—Conclusion of case. Statement of decision. Report.
- 8.—Court may demand certificate, &c.
- 9.—Not to affect Admiralty Court.

1. The Governor in Council may, whenever occasion shall require, by commission under his hand and seal, appoint five persons to form a Court, called the Marine Court of Enquiry; and such Court shall comprise some persons of judicial knowledge and habits, and some persons of nautical skill and experience; and in the commission may be indicated the person to preside over the Court. The proceedings of the Court shall be assimilated, as far as possible, to those of ordinary Courts of Justice, with the like publicity.

2. In cases following, that is to say:

Whenever any ship is lost, abandoned, or materially damaged on or near the coasts of this island or its dependencies:

Whenever any ship causes loss or material damage to any other ship, on or near the coasts of this island or its dependencies, or in any roadstead or harbor thereof:

Whenever by reason of any casualty happening to or on board of any ship on or near the coasts of this island or its dependencies, or in any roadstead or harbor thereof, loss of life ensues:

Whenever any such loss, abandonment, damage or casualty happens elsewhere, and any competent witness or witnesses thereof arrive or are found at any place within this island or its dependencies:

Whenever a charge of misconduct or incompetency is brought by any person against a master, mate or engineer of a British ship:

Such Court may hear and enquire, and generally exercise the powers and perform the duties given and prescribed by the act of the Parliament of Great Britain and Ireland, known as the Merchant Shipping Act, 1854, as amended by the Merchant Shipping Act, 1862, or as the same may be amended; and may also exercise the powers given to inspectors appointed by the Board of Trade: Provided that the duty

of inspection may be performed by any one or more members of such Court, or by one or more competent persons to be appointed by the said Court.

3. Every person wilfully impeding such inspection, or wilfully impeding any person engaged in such inspection, whether on board ship or elsewhere, shall incur a penalty not exceeding forty dollars, and may be seized and detained by any such person, or others who may be called to assist, until such offender can be conveniently taken before some Justice; and such penalty shall be recovered, and such offender dealt with, in the same manner as nearly as applicable as in the case of a person impeding an inspector under part first of the said Merchant Shipping Act, 1854.

4. The said Court shall, so far as relates to the summoning of parties, compelling the attendance of witnesses; the regulation of its proceedings, and the enforcing of penalties and of obedience to the judgment or orders of the Court, have the same powers as Justices would have if the proceedings related to an offence or cause of complaint upon which they had power to make a summary conviction or order, or as near thereto as circumstances permit; and the said Court of Marine Enquiry may exercise the jurisdiction and authority conferred on Justices under the third section of this chapter.

5. The Governor in Council may, upon any occasion which he may see fit, and at whatever place may be necessary, appoint any other persons to be a tribunal authorized to make enquiry into the several matters aforesaid, with the like powers as the Court hereinbefore mentioned.

6. The Court may make such order with respect to the costs of any such investigation, or any portion thereof, as they shall deem just; and such costs shall be paid accordingly, and shall be recoverable in the same manner as other costs incurred in summary proceedings before a Justice.

7. Upon the conclusion of the case, or as soon afterwards as possible, the Court shall state in open Court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full report upon the case, with the evidence, and of the judgment and opinion thereon, and such observations, if any, as the Court may think fit, to the Governor, for transmission to the Board of Trade; and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the Governor for transmission to the Board of Trade, with their report.

8. The Court may, if they think proper, require any master, mate or engineer, possessing a certificate of competency or service, whose conduct is called in question or appears to them likely to be called in question in the course of such investigation, to deliver such certificate to them; and if their report is to cancel or suspend such certificate, shall forward the same to the Governor, to be transmitted to the Board of Trade; or, if such be not their decision, then such certificate shall be returned; and if any master, mate or engineer fail to deliver his certificate when so required, he shall incur a penalty not exceeding two hundred dollars.

9. Nothing in this chapter contained shall affect in any way the jurisdiction of the Vice-Admiralty Court of Newfoundland, howsoever acquired.

CHAPTER 100.

OF PILOTS AND PILOTAGE FOR THE PORT OF ST. JOHN'S.

SECTION

- 1—Appointment of commissioners.
- 2—Commissioners shall not license pilots except on due examination.
- 3—Certificates to be granted.
- 4—Certificates to be numbered and registered. Penalty for lending or transferring certificate.
- 5—Commissioners may make bye-laws, &c.
- 6—Commissioners may hear and determine pilotage claims.
- 7—Rates of pilotage.
- 8—Flag to be carried. Boat to be marked.

SECTION

- 9—Pilots not to be taken to sea against their will.
- 10—Persons not licensed bound to give up to licensed pilots.
- 11—Vessels bound to take pilots. Exceptions.
- 12—Persons acting as pilots in absence of licensed pilots may recover rates.
- 13—Recovery of penalties.
- 14—Appeal.
- 15—Provision in case pilots establish steam-tugs.
- 16—Provision in case of pilots retiring.

1. There shall be five commissioners of pilots, three of whom shall be a quorum, for the port of St. John's, who shall act gratuitously. The appointment of such commissioners shall be in the Governor in Council. Every commissioner shall take the following oath before a Judge or Magistrate:—"I, A. B., do swear that I will act diligently, faithfully and impartially in the selection and examination of pilots for the port of St. John's."

2. The commissioners shall not license any one as a pilot except on due examination they shall find him a fit person to act in that capa-

city; and until the present number of pilots is reduced to ten, and thereafter never to exceed twelve, no more pilots shall be licensed except such persons as were apprenticed to licensed pilots and entered as such in the commissioners' books prior to the thirteenth day of April, one thousand eight hundred and sixty-four.

3. The commissioners shall grant certificates to licensed pilots in the following form, and such certificates shall be revocable at pleasure :

CERTIFICATE.

No.

Port of St. John's, }
Newfoundland. }

I, C. D., Chairman of the Board of Commissioners appointed by law to examine and select pilots for the said port, do hereby certify that E. F., having been examined by the said Board, was deemed a fit person to undertake the pilotage of vessels of every description into and out of the said port, and on the day of A. D., 18 was by said Board licensed to act in that capacity.

(Signed) C. D.,

Chairman.

Entered in the register of pilots' licenses this

day of

A. D. 18

(This license cannot be lent or transferred.)

AGE.	HEIGHT.	COMPLEXION.	COLOR OF HAIR AND EYES.	REMARKS.

4. Every such certificate shall be numbered and registered in a book kept for that purpose, and shall be annually renewed. Pilots shall pay four dollars for every such certificate; and in case of loss or defacing the same, not above two dollars for a new certificate. No licensed pilot shall lend or transfer his certificate under a penalty of twenty dollars for the first offence, and for a second offence shall lose his certificate and shall not be again licensed. Every licensed pilot shall pay annually eight dollars to the secretary of the commissioners for the benefit of the pilot fund.

5. The commissioners may establish bye-laws for the further regulation of pilots, and for extra remuneration in cases of an extraordinary nature, and for the adjustment and decision of questions arising between masters of vessels and pilots and others respecting pilotage;

and also respecting the salvage of anchors and cables, and may annex penalties for enforcing the same; but no bye-law shall be in force until approved of by the Governor in Council.

6. The commissioners may hear and determine all claims for pilotage, salvage of anchors and cables, and remuneration for extraordinary services in which pilots are concerned, under the like forms and proceedings used in the Sessions Court of St. John's for the recovery of small debts; and the amount of such commissioners' judgment, and the costs incident thereto, to be taxed according to the Sessions Court scale, shall be levied on the goods and chattels of the party against whom such judgment is given, or on the vessel (except her Majesty's ships) on account of which such claim may have arisen.

7. The rates of pilotage payable by vessels entering or leaving the port of St. John's shall be as follows, when such vessels are boarded by a licensed pilot to the southward or eastward of Cape Spear, or to the northward of Sugar Loaf, and five-sixths of the said rates when boarded inside Cape Spear and to the southward of Sugar Loaf and before coming to anchor. When the present number of licensed pilots is reduced to eighteen, three-fourths only of these rates to be charged; and when reduced to twelve, half only of the present rates to be charged and payable, and no vessel returning to the said port within twenty-four hours after her departure therefrom shall be compellable to take a pilot on her said return to the said port, nor on her second departure therefrom. Any pilot exacting a larger sum for his services, or taking a less sum than is allowed by said rates, shall forfeit for such offence the sum of eight dollars; and when he has exacted more, shall refund the excess received by him.

On vessels under eighty tons register measurement, eight dollars.

On vessels from eighty to one hundred tons, ten dollars.

On vessels from one hundred to one hundred and twenty tons, eleven dollars.

On vessels from one hundred and twenty to one hundred and sixty tons, twelve dollars.

On vessels from one hundred and sixty to two hundred tons, thirteen dollars.

On vessels from two hundred to two hundred and forty tons, fourteen dollars.

On vessels from two hundred and forty to two hundred and eighty tons, fifteen dollars.

On vessels from two hundred and eighty to three hundred tons, sixteen dollars.

On vessels from three hundred to three hundred and fifty tons, twenty dollars.

On vessels from three hundred and fifty to four hundred tons, twenty-four dollars.

On vessels from four hundred to five hundred tons, twenty-eight dollars.

On vessels from five hundred to six hundred tons, thirty-two dollars.

On vessels from six hundred to seven hundred tons, thirty-six dollars.

On vessels from seven hundred to eight hundred tons, forty dollars.

Over that size, for every one hundred tons additional, two dollars.

And on no one vessel is the pilotage to exceed forty-eight dollars.

Steamers of less than one hundred and fifty horse power shall pay pilotage on their net tonnage as in the case of sailing vessels.

Steamers above the said power shall pay at the rate of ten cents for each horse power, without reference to tonnage.

Steamers employed in the fisheries of the colony shall be exempt, except on foreign voyages, and then at the rate of ten cents for each horse power.

Coastal steamers shall also be exempt.

Subsidized mail steamers, in connection with the colony, shall pay on the horse power at the rate of ten cents for each horse power.

No steamer shall pay more than forty-eight dollars at one time.

All coasting vessels which may take pilots to pay one half of the above rates of pilotage in proportion to their tonnage. The above scale of pilotage shall be payable on the register tonnage of all such vessels as ascertained before going out of the harbor.

Her Majesty's vessels under sixth rate, fourteen dollars.

Her Majesty's vessels of the fourth, fifth and sixth rate, twenty-six dollars.

Her Majesty's vessels of the first, second and third rate, thirty-four dollars.

8. Every licensed pilot shall carry such flag and have his boat so marked and rigged as shall be directed by the commissioners, under a penalty of twelve dollars; and every unlicensed pilot carrying such flag, and having his boat so marked and rigged, shall be liable to a penalty of twelve dollars.

9. No licensed pilot shall be taken to sea against his will, under a penalty of two hundred dollars on the master of the vessel, except

when through stress of weather the same is unavoidable, in which case he shall be entitled to receive from the master or owner of the vessel payment at the rate of sixteen dollars and eighty cents a month for all the time lost, besides the usual meat, drink and a passage home from the first port the ship shall enter, where the same can be obtained.

10. Any person taking charge of any vessel as pilot, and not being licensed, shall give up the guidance of the said vessel to the first licensed pilot who shall board such vessel to the eastward of Small Point, under a penalty of eight dollars.

11. All ships and vessels, except her Majesty's ships, vessels belonging to the Royal Yacht Club, coasting vessels, and vessels which have not been boarded until after they have entered the Narrows, shall be obliged to take or pay a pilot; and no vessel shall be deemed to be a coasting vessel and exempt from the liability of taking a pilot unless such vessel shall have been usually employed as a *bona fide* coaster, or if such vessel shall have on board any part of a cargo imported in such vessel from any port or place out of this colony, or if such vessel shall be going to any place out of this colony, or to any outport to load a cargo for any foreign market: Provided that when in consequence of stormy weather extreme danger would arise to any boat going outside the Narrows, the commissioners may award pilotage to any pilot who shall in such case have offered his services within the Narrows and have been rejected.

12. Nothing herein contained shall deprive any person who may act as a pilot in the absence of licensed pilots from receiving payment for his services according to the said table of rates, or to relieve any licensed or other pilot from his responsibility to answer for the amount of any loss sustained through his improper conduct in a civil action at the suit of the party injured.

13. All penalties imposed by this chapter, or hereafter to be imposed by any bye-law made by virtue thereof, may be sued for and recovered before a stipendiary Magistrate or any two of her Majesty's Justices for the district of St. John's, and shall be levied with costs by warrant of distress of such stipendiary Magistrate or Justices on the goods of the offender; and for want of goods such Magistrate or Justices shall order such offender to be imprisoned for a term not exceeding one day for every dollar in the said penalties, or until such penalties shall be paid; and one third of such penalties shall go to the use of the person suing for the same, and the remainder, together with the

fees received for certificates, shall form a fund in the hands of the commissioners to defray the salary of the secretary and other contingent expenses attending the execution of the provisions of this chapter ; and the surplus of such fund, if any, shall be appropriated by them for the benefit of infirm and disabled pilots.

14. Whenever the amount of any judgment given by the said commissioners, or of any penalty imposed by the said Justice or Justices, shall exceed twelve dollars, any party feeling himself aggrieved may appeal from the judgment of such commissioners, or from the conviction of such Justice or Justices, to the Supreme Court, upon giving sufficient security to prosecute such appeal within a reasonable time, and to abide by and perform such judgment or order as may be made thereon.

15. In the event of any persons licensed as pilots establishing a steam-tug for the port of St. John's, the commissioners may, with the approval of the Governor in Council, appropriate the amount of the pilots' reserved fund aforesaid towards the purchase or support of such tug boat.

16. If any one or more of the present number of licensed pilots shall voluntarily retire from his or their said office of pilot, and resign and surrender his or their license to the commissioners, the said commissioners may pay to each pilot so retiring and surrendering the sum of two hundred dollars out of the pilot fund ; and the said pilot or pilots so retiring shall not have any further claims upon the present or any future pilot fund, or upon the said commissioners in respect thereof : provided that the number of pilots so retiring shall not exceed six.

CHAPTER 101.

OF WRECKED PROPERTY.

SECTION

- 1—Appointment of commissioners.
- 2—Their duties.
- 3—Commissioner to compel party holding wrecked property without authority to give up same.
- 4—Claim for salvage or other service in case of dispute to be referred to arbitration.
- 5—Property to remain in commissioner's hands until salvage claims are settled.
- 6—Appeal from decision of arbitrators to Court of Record, or a Judge.
- 7—How award is to be paid or satisfied.
- 8—Penalty for secreting property or refusing to deliver up same.
- 9—Power of commissioner to secure property, preserve the peace, &c.
- 10—Commissioner to make inventory of property, and deliver a copy thereof to the owner.
- 11—Penalty for intermeddling with property.
- 12—Commissioner to publish in the newspapers particulars of shipwreck, &c.
- 13—Within thirty days after salvage claim satisfied, commissioner to sell property to pay duties, &c.

SECTION

- 14—Commissioner may sell before expiration of the thirty days in certain cases.
 - 15—Case of no claim after publication for owner of wrecked property.
 - 16—In case of disagreement between commissioner and Receiver General respecting charges, to be referred to arbitration.
 - 17—Penalty on commissioner for neglecting to comply with the requirements of the preceding section.
 - 18—Case of non-claim of property in hands of the Receiver General.
 - 19—Justice to issue warrant to seize property wrongfully withheld.
 - 20—Justice to summon party withholding such property.
 - 21—Appeal.
 - 22—Want of legal form in proceedings not to affect same.
 - 23—In default of paying fine, party to be imprisoned.
 - 24—Appropriation of fines and penalties.
 - 25—Definition of terms.
 - 26—Consul to be deemed agent of owner in certain cases.
- Schedule.

1. The Governor in Council shall appoint in every electoral district in this island one or more commissioners of wrecked property, who before acting as such commissioners shall take the oath prescribed in the schedule to this chapter marked A.

2. Every commissioner shall, immediately on receiving information of a shipwreck, or of wrecked property (above the value of one hundred dollars) being within the district for which he has been appointed repair to the place where such wreck or wrecked property shall be, and in case the same shall not then be in the custody of the owner or his agent, or if in such custody, if required so to do by the owner or agent, shall take charge thereof.

3. Should any wrecked property be in the possession of any person other than the owner thereof or his agent, the commissioner shall demand and receive the same from such person; and should he refuse to deliver up such property, the commissioner shall command as many

men of the neighbourhood to assist him in taking by force possession thereof as may be necessary.

4. Should the commissioner and any person having a claim for salvage or any other services on such property be unable to agree as to the amount due for said services, such claim shall be submitted to the decision of two arbitrators in addition to the said commissioner, one of which arbitrators shall be appointed by the owner or his agent, and the other by the claimant; and in case either party should be absent, or omit or refuse, after the expiration of four days from the time the said commissioner shall take possession of such property, to appoint an arbitrator, the commissioner may immediately thereafter appoint an arbitrator in his place; and the award of the said arbitrators and commissioner, or any two of them, shall be final and binding between the parties. The evidence to be taken by the arbitrators and commissioner shall be taken on oath, to be administered by the commissioner.

5. Until all claims for salvage or other services are satisfied, the said property shall remain in the possession of the commissioner.

6. In any case where the whole property saved shall amount to four thousand dollars and upwards in value, and the commissioner shall be of opinion that the amount awarded to any person is excessive or insufficient, there may be an appeal by petition to any superior Court of Record, or Judge of such Court, to be prosecuted within one month by either of the parties or the commissioner, which appeal shall be heard and determined in a summary way by such Court or Judge, either upon the evidence as taken before the arbitrators and commissioner, or otherwise, as the Court or Judge may direct; and a Judge proceeding under this section shall have and exercise the like power as a Court of Record; and any party wilfully and corruptly giving false evidence, either before the arbitrators and commissioner, or a Court or a Judge, under this chapter, shall be guilty of and be punishable as for wilful and corrupt perjury. The Court or Judge proceeding under this chapter shall make such order as to costs as to the justice of the case may appertain.

7. Should the commissioner be unable to pay the amount of such award, or should the said award specify and define the quantity or portion of such property to which such person may be entitled for salvage or other services, the said commissioner may apply such quantity or portion of such property in satisfaction of the said award.

8. If any person finding or being in possession of such property, other than the owner or agent, shall secrete the same, or shall not,

within reasonable time, make known such finding or possession to the commissioner, or shall refuse to deliver up possession of such property to the said commissioner, he shall forfeit to the said commissioner double the value thereof, and shall for every such offence pay a penalty not exceeding four hundred dollars to her Majesty, to be recovered in the name of the said commissioner in any superior Court of Record in this colony, and appropriated for the use of the colony, and he shall forfeit all claim for salvage or other services.

9. The commissioner may employ as many persons as he may require to preserve and secure such property, and he shall have authority to suppress all tumults and disturbances; and any person who shall disobey the lawful orders of the commissioner in relation thereto shall forfeit and pay for every such offence a sum not exceeding forty dollars, to be recovered and applied in the manner hereinafter provided.

10. The commissioner shall make an inventory in writing of all such property as shall come into his possession, and shall verify the same by affidavit, which shall be in the form marked B in the schedule to this chapter, and shall deliver a copy of the inventory and affidavit, together with the property, or so much thereof as may remain in the hands of the said commissioner after satisfying salvage or other services to the person entitled thereto, on being first paid his commission as hereinafter provided, and all reasonable and necessary charges that he may have been put to for the care and custody of such property.

11. Any person, other than the owner or his agent, intermeddling with such property after the arrival of the commissioner at the place where the same may be, unless with his consent, shall forfeit a sum not exceeding two hundred dollars for every such offence, to be recovered and appropriated in the manner hereinafter provided.

12. If no person interested in such property or no agent of such person be present where the same may be, such commissioner shall, as soon after his arrival as practicable, publish in one of the newspapers of this colony the particulars of the shipwreck, and such other information relating to such property as he may have obtained. And if he should neglect to do so, he shall forfeit a sum not exceeding four hundred dollars, to be recovered in any superior Court of Record in this colony, at the suit and to the use of the person interested in such property.

13. The commissioner may, within thirty days after all claims for salvage and other services shall have been paid off and discharged, sell

so much of the property by public sale as shall be sufficient to pay all duties and all other charges and expenses thereon, first giving fourteen days' public notice of such sale in one of the newspapers published in this colony, and by hand-bills posted up in at least three of the most public places in the district, and in the vicinity of the place appointed for such sale, at least three days immediately preceding the day of such sale.

14. When wrecked property in the custody of a commissioner is under the value of one hundred dollars, or is of so perishable a nature or so much damaged that the same cannot, in his opinion, be advantageously kept, or if the value thereof is not sufficient to defray the charge of storing or warehousing, the commissioner may sell the same before the expiration of the said period of thirty days; and the moneys raised by such sale, after defraying the expenses thereof, shall be held by the commissioner for the same purposes and subject to the same claims for and to which the article sold would have been held and liable if it had remained unsold.

15. If no person interested in such property shall appear and establish his claim thereto within three months after the publication of such particulars relating thereto as aforesaid, the commissioner shall on the expiration of such time, should all claims for salvage and other services be then paid off and liquidated, (but if not, then immediately after the discharge of such claims,) deposit with the Receiver General of this colony a copy on oath of the inventory of such property, so to be taken and made as aforesaid; or, if the same shall have been sold, an account of the sales and of all moneys paid by the commissioner for duties, charges or expenses incurred in any way on account of such property; and he shall thereupon pay over the balance of the proceeds of such sales, and deliver to the said Receiver General such part of said property as shall in such case be remaining on hand, first deducting from such proceeds, and from the said property, a reasonable sum, not exceeding five per cent., exclusive of disbursements and reasonable charges, to satisfy the said commissioner for all claims he may have against such property or the proceeds thereof for his services or otherwise.

16. In case any disagreement should arise between the commissioner and the Receiver General in respect of the said charges, the same shall be decided by three arbitrators, one to be appointed by the commissioner, another by the owner or his agent, and the third by the Receiver General; or, in case a commissioner or owner, or his agent

shall neglect or refuse or shall be absent, the Receiver General shall appoint an arbitrator in his place.

17. If any commissioner shall, for the space of thirty days after the expiration of the said three months limited in the fifteenth section, (should all claims for salvage and other services be paid off and liquidated, but if not, then immediately after the discharge of such claim,) neglect or refuse to render a copy of such inventory or account to the Receiver General or to pay to him the balance of such proceeds or to deliver to him any such property remaining on hand, her Majesty's Attorney General shall, at the instance of the Receiver General, prosecute in her Majesty's name such commissioner for every such neglect or refusal, and recover from him the balance of such proceeds and such property, or the value thereof, as he shall so retain in his hands after such time as aforesaid.

18. If the balance of such proceeds, or of such property as shall be so deposited in the hands of the Receiver General as aforesaid, be not claimed by the owner thereof within twelve months after the same shall have been received by that officer, he shall immediately thereafter sell such property at public sale; and, after deducting all reasonable costs and charges from the proceeds thereof, pay over the balance and such money as he shall have so received as aforesaid into the treasury of the colony, therein to remain until the same shall be claimed by the owner thereof, who, on proof of his right thereto before a Judge of the Supreme Court, shall, upon order of such Judge, receive such money or proceeds out of the treasury.

19. When such property shall be found in the water within three miles of the coast of this colony, or on any part of the shores thereof, and be detained by any person not being the owner thereof or his agent, and such person shall refuse, on demand being made, to deliver up such property to the commissioner, in such case the commissioner may apply to any Justice in this colony, who, upon an affidavit of such facts made before him, shall thereupon issue a warrant under his hand commanding a constable of the district within which such property shall be so detained to seize and safely keep the same; which warrant the said constable shall execute, and thereupon make a true inventory of the property seized, and return such inventory to the said Justice; and which property shall remain in the custody of the said constable, to be disposed of according to the provisions of this chapter.

20. Upon the said constable making such return, the Justice shall summon the person from whom such property was so taken to ap-

pear at a time and place to be mentioned in such summons; and if, upon appearing thereto, he shall claim such property, or a lien thereon in his own right, the Justice shall then, or upon some other day to be appointed by him for that purpose, consider such claim; and if the property seized be proved to be that of such person the Justice shall order the same to be returned to him, and in case the Justice shall certify that the commissioner acted without reasonable or probable cause, shall further order that he be paid by the commissioner such damages, costs and charges, as to such Justice shall seem proper; but should the Justice find by the evidence given before him that such property was wrecked property found by such person, then the Justice shall adjudge to such person such salvage, costs and charges as such Justice may deem reasonable; which salvage, costs and charges shall be paid by the said commissioner out of the property, which property he shall dispose of in like manner as other property coming into his possession under the provisions of this chapter.

21. Any judgment of a Justice given under this chapter may be appealed from to any superior Court of Record of this colony, or to a Judge thereof, within six months from the giving of such judgment, in the same manner as nearly as may be and with the like power as provided in the sixth section of this chapter.

22. If any proceedings under this chapter shall be removed into, or be moved to be set aside by or be appealed from to any superior Court of Record or a Judge of such Court, the said Court or Judge may confirm the same, notwithstanding the want of legal form therein, or may correct or amend or wholly reverse the same, and give final judgment upon the merits.

23. In case any person convicted under any of the provisions of this chapter shall make default in the due payment of such fine, penalty, or forfeiture as shall be imposed on him, and shall have no property on which the same can be levied, he shall be committed to gaol for a period not exceeding six months, with or without hard labor.

24. All fines, penalties, or forfeitures imposed by this chapter and not hereinbefore appropriated to any person, or for any purpose, shall be paid to the Receiver General for the use of the colony, and sued for and recovered in any Court of Record therein, in her Majesty's name.

25. The word "property" used in this chapter, so far as the same is not repugnant to the context thereof, shall include all wrecks of the sea, or any goods or chattels, jetsam, flotsam, lagan, or derelict, or any

boat, vessel, apparel, anchor, cable, tackle, stores, or materials, or any goods, merchandize, or other article or thing whatsoever which shall be found floating or sunk at sea or elsewhere, in any tideway, shore, or coast of this island, or cast, thrown, or stranded upon the shore or coast thereof, and whether the same be found above or below high-water mark, or whether wholly in water or partly on land or partly in the water.

26. For the purposes of this chapter the Consul, vice-Consul, or Consular agent of the country of any foreign owner of property shall, in case of the absence of the owner or his agent, be deemed, *ipso facto*, the agent of such owner.

SCHEDULE (A.)

I, A. B., of _____ in the _____ district of the Island of Newfoundland, a commissioner of wrecked property appointed for the said district, make oath and say, that I will honestly, diligently and faithfully discharge the duties of such commissioner, according to the provisions of the laws of this colony.

Sworn to at _____ in the district of _____ in the
said island, on the _____ day of _____ A. D., 187 ____
Before me, _____
Justice of the Peace.

(B.)

I, A. B., _____ in the _____ district of the island of Newfoundland, a commissioner of wrecked property appointed for the said district, under and by virtue of chapter one hundred and one of the consolidated statutes of this colony, entitled "Of Wrecked Property," make oath and say, that the above and within is a just and true inventory of all and singular the goods, chattels, and property saved from the ship or vessel called the _____ recently wrecked at _____ and which have come to my hands or to my knowledge as such commissioner, to be disposed of according to the said chapter; and also a just and true account of the disbursements made on account of the said goods, chattels and property.

Sworn to at _____ in the district of _____ in the said
island, on the _____ day of _____ A. D., 187 ____
Before me _____
Justice of the Peace.

TITLE XXVII.
Of the Fisheries.

CHAPTER 102.

OF THE COAST FISHERIES.

SECTION

- 1—Herring not to be caught between 20th Oct. and 12th April. Seine, how to be used.
- 2—Time for use of, and size of net.
- 3—Injuries to nets and seines.
- 4—Herring not to be hauled for bait between 20th April and 20th October.
- 5—Spearing or sweeping with nets or seines for salmon above tidal waters unlawful.
- 6—Stake, seine or weir unlawful.
- 7—Mill dams and other obstructions.
- 8—Mesh of salmon net.
- 9—Salmon bought or sold in close time forfeited.

SECTION

- 10—Distance between salmon nets.
- 11—Time for taking salmon.
- 12—Penalties.
- 13—Weir, &c., erected contrary to law may be destroyed.
- 14—Forfeitures and penalties, how recovered.
- 15—Appropriation of same.
- 16—Convictions not to be quashed for want of form.
- 17—Governor may appoint superintendant of fishery and fishery wardens.
- 18—Reservation of treaty rights.

1. No person shall haul, catch, or take herrings by or in a seine or other such contrivance on or near any part of the coast of this colony or of ~~its dependencies~~, or in any of the bays, harbors or other places therein, at any time between the twentieth day of October and the twelfth day of April in any year, or at any time use a seine or other contrivance for the catching and taking of herrings, except by way of shooting and forthwith hauling the same: Provided that nothing herein contained shall prevent the taking of herrings by nets set in the usual and customary manner, and not used for in-barring or enclosing herrings in a cove, inlet or other place.

2. No person shall, at any time between the twentieth day of December and the first day of April in any year, use any net to haul, catch or take herrings on or near the coasts of this colony or of its dependencies, or in any bays, harbors or other places therein, having the mokes, meshes or scales of such net less than two inches and three-eighths of an inch at least, or having any false or double bottom of any description; nor shall any person put any net, though of legal size mesh, upon or behind any other net not of such size mesh, for the

purpose of catching or taking such herring or herring fry passing a single net of legal size mesh.

3. No person shall wilfully remove, destroy, or injure any lawful net or seine, the property of another, set or floating on or near the coast of this colony or its dependencies, or any of the bays, harbors or other places therein, or remove, let loose, or take any fish from such seine or net.

4. No person shall, between the twentieth day of April and the twentieth day of October in any year haul, catch or take herrings or other bait for exportation, within one mile measured by the shore or across the water of any settlement situate between Cape Chapeau Rouge and Point Enragee, near Cape Ray; and any person so hauling, catching or taking within the said limits, may be examined on oath by a Justice, officer of Customs or person commissioned for the purpose as to whether the herrings or other bait are intended for exportation or otherwise, and on refusal to answer or answering untruly, such person shall, on conviction, be subject to the provisions of the twelfth section of this chapter.

5. No person shall, by spearing or sweeping with nets or seines, take, or attempt to take, any salmon, grilse, par or trout in any bay, river, stream, cove or watercourse, above where the tide usually rises and falls, or in any pond or lake.

6. No stake, seine, weir, or other contrivance for taking salmon, except nets set or placed across, shall be set or placed in any river, stream, cove, lake or watercourse. No net shall extend more than one third of the distance in a straight line across, and all nets shall be set only on one side of such river, stream, cove, lake or watercourse.

7. No person shall construct any mill-dam, weir, rack, frame, train-gate, or other erection or barrier in or across any river, stream, cove, lake or watercourse, so as to obstruct the free passage of salmon grilse, par, trout or other fish resorting thereto, for the purpose of spawning; and all mill-dams or other erections placed on, over or across any watercourse, river or stream resorted to by fish for the purpose of spawning, shall have a waste gate opening, or slope sufficient to constitute a proper and sufficient fish way, which shall be kept in repair by the owner. No person shall permit any sawdust or mill rubbish to be cast into any such river, stream, cove, lake or watercourse.

8. No person shall use any net for taking salmon, the mokes, meshes or scales of which are less than four inches and a half-inch.

9. No person shall buy or sell or have in his possession salmon,

knowing the same to have been taken contrary to the provisions of this chapter, and every salmon so taken, bought or sold, shall be declared forfeited to the complainant by any Justice.

10. No net shall be moored or set in any harbor, cove, creek or estuary, or on or near any part of the coast of this colony, or its dependencies, for the purpose of taking salmon, nearer to any other net moored or set for a like purpose than one hundred yards for a single net, and three hundred yards for a double net or fleet of nets.

11. No salmon shall be taken before the first day of May or after the tenth day of September in any year : Provided that if the time limited in this section shall be found to operate injuriously in any part of this island, the Governor in Council may appoint any other time or times, and such time or times shall be as binding on all persons as if specially mentioned herein.

12. Any person who shall violate any of the provisions of this chapter shall be subject to a penalty not exceeding fifty dollars, and all seines, nets, and other contrivances used contrary to the provisions of this chapter shall be forfeited, and may be seized and detained until the trial of the offender by any Justice, sub-Collector of Customs, Preventive officer, fishery warden, or constable, on view, or by virtue of a warrant issued by such Justice, sub-Collector or Preventive officer, upon complaint made on oath to be administered by either of them, and, upon conviction, the same may be declared forfeited and ordered to be sold at public auction.

13. Any Justice, sub-Collector, Preventive officer, fishery warden, or constable, may, on view, destroy any weir, rack, frame, train-gate or other erection or barrier, used or erected contrary to the provisions of this chapter, or the same may be destroyed by virtue of a warrant issued by any Justice, sub-Collector, or Preventive officer, upon complaint made on oath to be administered by either of them.

14. All forfeitures and penalties imposed by this chapter shall be recovered with costs in a summary manner before any Justice, for which purpose such Justice may summon or arrest the offender, and compel witnesses, by summons or warrant, to appear before him ; and, upon conviction of the offender, such Justice shall cause all seines, nets, and other contrivances illegally used to be sold by public auction, or where permitted under the provisions of the preceding sections of this chapter, destroyed ; and in default of the payment of any penalty imposed, and costs, such Justice shall issue his warrant and cause such offender to be arrested and imprisoned for any period not exceeding twenty days.

15. All penalties and forfeitures imposed by this chapter, and the proceeds thereof, shall be paid to the party informing against and prosecuting the offender to conviction.

16. No proceeding or conviction by any Justice or other officer under this chapter shall be quashed or set aside for any informality, provided the same shall be substantially in accordance with the intent and meaning of this chapter.

17. The Governor in Council may appoint the Collector of Revenue for Labrador, or other person, to be superintendent of the fisheries on the coast of this island and its dependencies, and may also appoint fishery wardens, and prescribe their duties for the purposes of this chapter. The compensation for the services of such officers to be provided by the Legislature.

18. Nothing in this chapter shall affect the rights and privileges granted by treaty to the subjects of any state or power in amity with her Majesty.

CHAPTER 103.

OF INLAND FISHERIES.

SECTION

1—Taking trout in inland waters with nets and other contrivances, unlawful. Penalty.

SECTION

2—Recovery of penalties.
3—Appropriation of penalties.
4—Constable may arrest on view.

1. No person shall at any time catch, kill or take any kind of trout or other non-migratory fresh-water fish, in any inland lake, river or stream within this colony, by the use of any net, bultow, weir, fishing otter, lime or any deleterious compound, under a penalty of not exceeding ten dollars for each offence, and in default of payment, imprisonment for any term not exceeding ten days.

2. The penalties imposed by this chapter shall be recovered in a summary manner, on conviction before any Justice, on complaint or information of any peace officer or other person, and by distress and sale of the offender's goods and chattels; and in case no sufficient distress be found, then the said Justice shall commit such offender to prison for any period not exceeding ten days.

3. The penalties, when recovered, shall be paid one half to the party

informing and prosecuting for the same, and the other half to the Receiver General for the use of the colony.

4. Any constable or peace officer shall, on view, arrest any person he may find violating the provisions of this chapter, and bring the offender before any Justice to be further dealt with according to law.

CHAPTER 104.

OF THE PROPAGATION AND PROTECTION OF OYSTERS.

SECTION

1—Governor may issue grants, &c.

2—Oysters placed in beds not to be disturbed. Penalty.

SECTION

3—Governor may make regulations.

4—Penalties how recovered, &c.

1. The Governor in Council may issue, to any persons desiring the same, free grants of any coves, creeks, lakes, rivers or banks of this island for the purpose of planting therein and propagating oysters, under such rules and regulations as the Governor in Council may promulgate for the purpose of carrying this chapter into operation.

2. No person shall take any oysters from beds where they have been placed for propagation, or injure or destroy them, or wilfully obstruct their growth therein, in any part of this colony. And every person who shall so take, injure, destroy or obstruct the same, shall forfeit and pay for each offence a penalty not exceeding forty dollars.

3. The Governor in Council may make regulations respecting the taking of oysters in any of the coves, creeks, lakes, rivers, or banks of this colony, and may impose penalties for the breach of such regulations: Provided such penalties do not exceed forty dollars for each offence.

4. The penalties imposed by this chapter, or for breach of the regulations to be made as aforesaid, may be recovered before a stipendiary Magistrate, with costs; and should the same, and costs, be not forthwith paid, the offender may be committed to gaol for a term not exceeding two months, at the discretion of the Magistrate before whom he shall be convicted; and one moiety of such penalties shall be paid to the Receiver General for the use of the colony, and the other moiety to the complainant.

TITLE XXVIII.
Of the Domestic Relations.

CHAPTER 105.

OF MARRIAGE.

SECTION

- 1—By whom to be solemnized.
- 2—Two credible witnesses to be present.
- 3—Where parties are under age, banns to be published, or consent of parents obtained.
- 4—All marriages to be registered.
- 5—Register to be proof of the due celebration of marriage.
- 6—Persons defacing or destroying register, guilty of felony.

SECTION

- 7—Magistrates and other laymen, when duly licensed, authorized to celebrate marriages.
- 8—Persons celebrating marriages where there is no church or chapel, to transmit a certificate thereof to the Colonial Secretary within twelve months.
- 9—Register to be evidence of marriage.
- 10—Penalties may be sued for in any Court of Record. Their appropriation.

1. All marriages which may hereafter be solemnized in this colony and dependencies shall be solemnized by persons in holy orders, or by some resident minister publicly recognized as the pastor and teacher of any congregation having a church or chapel, or by persons employed to discharge the duties of teachers or preachers of religion, such teachers or preachers being duly licensed to celebrate marriage by the Governor, except in the cases hereinafter especially excepted and provided for; and any person who shall assume to officiate in the performance of marriage unless authorised under the provisions of this chapter, shall forfeit two hundred dollars.

2. No person in holy orders, nor any such preacher or teacher of religion as aforesaid, nor any other person authorized to celebrate marriage by this chapter, shall celebrate or perform marriage between any persons in this colony or dependencies except in the presence of two credible witnesses; and if any such person in holy orders, or teacher or preacher of religion as aforesaid, or any other person authorized to celebrate marriage by this chapter, shall hereafter celebrate or perform any marriage except in the presence of two credible witnesses, he shall be liable to the payment of a fine of two hundred dollars; but the want of such witnesses shall not invalidate the marriage.

3. If any person authorized and licensed to perform or celebrate marriage in this colony and dependencies shall so perform or celebrate any marriage between any two persons either of whom shall be under age, without having first duly published the banns thereof on three successive Sundays in some church or chapel, or, where there is no church or chapel, then without causing notice of such intended marriage to be placarded in some conspicuous place of public resort for the space of three weeks immediately preceding the day appointed for the celebration of such proposed marriage, or without having first obtained the consent of the parents or guardians of such person under age, he shall be guilty of a misdemeanor, and shall, on conviction thereof before the Supreme Court of this island, pay such penalty as the said Court shall award, not exceeding the sum of two hundred dollars.

4. Every person in holy orders, resident minister, and every teacher or preacher of religion as aforesaid, by whom any marriage shall be performed or celebrated in this colony or dependencies, shall, under the penalty of twenty dollars, immediately after the performance or celebration of any such marriage enter in a register or book, to be kept for that purpose in the church or chapel in which he performs divine service, a certificate or record of such marriage, subscribed with his own name, and containing the names and signatures or marks of the parties married, the day and year when and the place where the marriage was performed, and the names and signatures of two credible witnesses present at such marriage, and such register or book shall be kept and remain at such church or chapel, and shall be open to the inspection of any person requiring to consult or examine the same at all convenient hours; and every person in holy orders, resident minister and teacher or preacher of religion licensed as aforesaid, shall make and deliver to any and every person who shall demand the same a copy, attested by him, of any entry or record contained or made in the said book or register of marriage, on payment to him by the person who shall require such attested copy of a fee of fifty cents.

5. Any such book or register of marriage, or such attested copy as aforesaid of any entry or record made in any such book or register of marriages, the handwriting of the attesting minister being duly proved, shall for all purposes be received as sufficient evidence of the due celebration of any marriage in this colony and dependencies, which by such book or register or by such attested copy shall appear or purport to have been celebrated; and every such marriage shall, upon the production of every such book or register, or of such attested

copy and proof as aforesaid, be deemed to have been duly performed and celebrated.

6. If any person shall wilfully deface or destroy, or procure to be defaced or destroyed, any book, or register of any marriage, or of any part thereof as aforesaid, with intent to avoid, cancel or annul such marriage, such offender shall be guilty of felony.

7. When the residence of any woman about to be married shall be distant ten miles from the residence of the nearest clergyman or teacher or preacher of religion licensed as aforesaid, any Magistrate, being first licensed for such purpose by the Governor, may celebrate such marriage; and if there be no such teacher or preacher of religion, nor any Magistrate licensed as aforesaid, residing within fifteen miles of the woman about to be married, in such case any layman or person, duly licensed for such purpose by the Governor, may celebrate marriage between any persons resident in such place.

8. Every teacher and preacher so licensed, who shall not have a church or chapel in which he performs divine service, and every Magistrate or other layman so celebrating any marriage as aforesaid, shall, within twelve months from the time of the celebration of any such marriage, cause a certificate thereof to be registered in the office of the Colonial Secretary under a penalty of twenty dollars; and whenever such certificate of marriage shall be produced and delivered to the Colonial Secretary, duly proved, he shall, within seven days next after the receipt of such certificate, and upon payment or tender to him of twenty cents, enter or cause to be entered a true copy thereof in a public book or register of marriages to be by him kept for that purpose; and such public book or register shall be kept and remain at the office of such secretary, and shall be open to the inspection of any person requiring to consult the same, at the usual office hours; and the said secretary shall make and deliver to any person who shall demand the same, upon payment or tender to him of fifty cents, a true copy of any entry made in the said public book or register of marriages, attested by him in form following, that is to say:

A true copy, extracted from the public register of marriages,

C. D., Secretary.

9. Any such public book or register of marriage in this colony and dependencies, or such attested copy as aforesaid of any entry in any such public book or register of marriages, the handwriting of the said secretary being duly proved, shall for all purposes be received as sufficient evidence of the due celebration of any marriage in this colony

or dependencies which, by such book or register, or by such attested copy shall appear or purport to have been celebrated; and every such marriage shall, upon production of such book or register, or of such attested copy and proof as aforesaid, be deemed to have been duly performed and celebrated.

10. All fines, forfeitures and penalties imposed by this chapter may be sued for and recovered in the Supreme Court, and one moiety thereof shall be paid to the person who shall inform and sue for the same, and the remaining moiety thereof shall be paid to the Receiver General for the use of the colony. In default of payment the offender may be imprisoned for any period not exceeding six months.

CHAPTER 106.

OF THE REGISTRY OF BIRTHS, MARRIAGES AND DEATHS.

SECTION

- 1—Stipendiary Magistrates *ex officio* registrars. Copy of register to be transmitted to Colonial Secretary.
- 2—Governor may appoint registrars in remote districts.
- 3—Register of marriages to be compiled from official records and other sources.
- 4—Notice of births to be given.
- 5—Notice of deaths to be given.
- 6—Magistrates, and others licensed to celebrate marriages, to keep register and transmit copy.
- 7—Reference to schedule.
- 8—Blank forms to be furnished.

SECTION

- 9—Extracts from registry may be obtained.
- 10—Registry of birth of illegitimate children.
- 11—Governor may define jurisdiction of registrars.
- 12—Penalty for giving false information for the purpose of registry.
- 13—Penalty on parties furnishing publishers with false statements, &c.
- 14—Penalty on publisher for false statement, &c.
- 15—Penalty on parties neglecting duties imposed by this chapter.
- 16—Fees to registrars.

Schedule.

1. The stipendiary Magistrates for the several districts of the colony shall be *ex officio* registrars of births, marriages and deaths for the respective localities and their neighborhoods to which they are appointed, and shall as far as practicable, by means of such information as it may be in their power to obtain, keep a correct register of all births, marriages and deaths occurring in the places for which they are registrars, or amongst the residents thereof, and shall transmit a true copy of such register to the office of the Colonial Secretary once in each year.

2. The Governor in Council may appoint registrars of births, mar-

riages and deaths for places in this colony so remote from the residence of any of the Magistrates mentioned in the preceding section as to render it impracticable or difficult for parties to transmit notices of the births, marriages or deaths occurring in such places.

3. For the purposes of this chapter the said registrars shall compile their returns of marriages celebrated within their respective districts in each year, as well from the official records kept by the clergymen of the several denominations, under the provisions of chapter one hundred and five of these consolidated statutes, as from any other sources of information that may be available to them.

4. The father or, in his absence or death, the mother of every newly born child, or in case of the death or absence of the father and the inability of the mother, the owner or manager of the house in which such child may be born, shall, within fourteen days after the birth or as soon thereafter as can conveniently be done, give or transmit to the nearest registrar of births information of such birth and of the time and place thereof, and, where known, the names of both parents.

5. The father or, in his absence or death, the mother, or in her absence or death the son, wife, or other nearest relative of any one who shall die at any place within the colony or its dependencies, or at sea or abroad, (if temporarily absent, and a resident of the colony,) or in the event of there being no such relative as aforesaid, the owner or manager of the house in which such person shall have died or from which such person shall be buried, and the coroner or Magistrate before whom an inquest on any person deceased shall be held, shall, within fourteen days after such death, or as soon thereafter as can conveniently be done, give or transmit to the nearest registrar of deaths information of such death, and of the name, residence and age of the party deceased, and as far as is known of the cause of death.

6. Every Magistrate and other person licensed to celebrate marriages within the colony shall keep a true register of all marriages celebrated by him, and shall annually transmit to the office of the Colonial Secretary a true copy thereof.

7. The registries of births, marriages and deaths to be kept by the parties aforesaid, shall be in the form contained in the schedule annexed.

8. Blank forms shall be distributed by the Colonial Secretary to the several registrars of the colony; and the returns sent to his office shall be there retained and filed, and an alphabetical abstract of such returns shall be annually compiled for the information of the Legislature.

9. Any person, on the payment of the sum of twenty-five cents, shall be entitled to receive from the Colonial Secretary an extract from such returns; and any such extract signed by that officer shall, in any Court of Justice in the colony, be received as *prima facie* evidence of the matter therein contained.

10. In registering the birth of an illegitimate child the name of any person shall not be entered as the father unless at the joint request of the mother and of the person acknowledging himself to be the father, who in that case shall sign the register as informant along with the mother; and in such case the registrar shall write the word "illegitimate" under the child's name in the register.

11. The Governor in Council may, by order, cause the limits to be defined of all or of some only of the registrars' jurisdiction under this chapter, and as occasion may require alter the same. Such order shall be published.

12. Every person who shall knowingly and wilfully make or cause to be made, for the purpose of being inserted in any register of births, marriages or deaths, any false statement touching any of the particulars herein required to be known and registered, or who shall alter or deface any return or register, shall be subject to the same pains and penalties as if such person were guilty of wilful and corrupt perjury.

13. Every person who shall wilfully send to any newspaper publisher or other person for publication in any newspaper in this colony, a fictitious or false statement of the marriage or death of any person, or of the birth of any child, shall be guilty of a misdemeanor, and shall be liable to fine and imprisonment, or both, at the discretion of the Supreme Court of this colony.

14. Every proprietor, editor or publisher of any newspaper published in this colony, who shall wilfully publish a fictitious or false statement of the marriage or death of any person, or of the birth of any child, shall be guilty of a misdemeanor, and shall be liable to fine or imprisonment, or both, at the discretion of the Supreme Court of this colony.

15. Every person who shall refuse or neglect to perform any of the duties by this chapter imposed, and by such person to be performed, shall, for every such refusal or neglect, forfeit and pay a sum not exceeding twenty dollars, to be recovered in a summary manner before any stipendiary Justice, one half thereof to be paid to the party prosecuting the said offender to conviction, and the remaining half to be paid to the Receiver General for the use of the colony.

16. Every registrar shall receive from the public treasury the sum of twenty-five cents for every folio of one hundred words contained in the returns annually made by him to the Colonial Secretary.

SCHEDULE.

Form of Register of Births for
in the district of

CHILD'S NAME.	MALE.	FEMALE.	DATE OF BIRTH.	LOCALITY.	NAMES OF PARENTS IF KNOWN.

The foregoing is a true return of the particulars therein mentioned.

A. D., 18

Registrar for

A. B.,
in the district of

Form of Register of Marriage for
in the district of

MAN'S NAME.	WOMAN'S NAME.	PLACE OF MARRIAGE.	DATE OF MARRIAGE.	BY WHOM MARRIED.

The foregoing is a true return of the particulars therein mentioned.

A. D., 18

Registrar for

A. B.,
in the district of

Form of Register of Deaths for
in the district of

NAME, &C., OF DECEASED.	DATE OF DEATH.	PLACE OF DECEASE.	CAUSE OF DEATH.

The foregoing is a true return of the particulars therein mentioned.

A. D., 18 ,

Registrar for

A. B.,
in the district of

CHAPTER 107.

OF THE PROTECTION OF MARRIED WOMEN.

SECTION

- 1—Wife deserted by her husband may apply to protect property, &c.
- 2—Judge if satisfied may grant order. Wife shall hold property as if she were *feme sole*.
- 3—Husband or creditor may apply for discharge of order.
- 4—Husband or creditor seizing property after notice liable to be sued.
- 5—After order wife, as regards property, same as *feme sole*.

SECTION

- 6—Property obtained as executrix, &c.
- 7—Order of protection valid as security for person dealing with wife until reversed.
- 8—Discharge or reversal of order not to affect contracts.
- 9—Reversionary interests of wife protected.
- 10—Order shall state time desertion commenced.
- 11—Protection of persons making payments, &c., to wife under order which may be afterwards reversed.

1. A wife deserted by her husband, wherever resident in this colony, may at any time after such desertion apply to a Judge of the Supreme Court for an order to protect any money or property she may have acquired or may acquire by her own lawful industry, and any property which she may have become possessed of, or may become possessed of after such desertion, against her husband and his creditors, or any person claiming under him.

2. Such Judge, if satisfied of the fact of the desertion, and that the same was without reasonable cause, and that the wife is maintaining herself by her own industry or property, may make and give to the

wife an order protecting her earnings and property, acquired since the commencement of such desertion, from her husband, and all creditors and persons claiming under him; and such earnings and property shall belong to the wife as if she were a *feme sole*. Such order shall be entered with the registrar of deeds within whose district the wife is resident.

3. The husband, and any creditor or other person claiming under him, may apply to a Judge of the Supreme Court for a discharge of such order, and such Judge on sufficient cause shewn may grant such discharge.

4. If the husband, or any creditor of, or person claiming under the husband, shall attach, seize, or continue to hold any property of the wife after notice of any such order, he shall be liable, at the suit of the wife, which she may bring in her own name, to restore the specific property, and also a sum equal to double the value of the property so attached, seized or held after such notice.

5. If any such order of protection be made, the wife shall, during the continuance thereof, be deemed to have been, during such desertion of her, in the like position in all respects with regard to property and contracts, and suing and being sued, as she would be if she were a *feme sole*.

6. The provisions contained in this chapter respecting the property of a wife who has obtained an order for protection, shall extend to property to which such wife has become or shall become entitled as executrix, administratrix or trustee, since the commencement of the desertion; and the death of the testator or intestate shall be deemed to be the time when such wife became entitled as executrix or administratrix.

7. In any case in which a wife shall, under this chapter, have obtained an order to protect her earnings or property, such order shall, until reversed or discharged, so far as necessary for the protection of any person or corporation who shall deal with the wife, be valid and effectual.

8. No discharge of such order shall prejudice or affect any rights or remedies which any person would have had in case the same had not been so discharged, in respect of any debts, contracts, or acts of the wife, incurred, entered into, or done between the times of the making of such order and of the discharge thereof.

9. Property of which the wife is possessed, or to which she may be entitled for an estate in remainder or in reversion, or any annual or

other income arising out of property devised or bequeathed to or settled upon her at the date of the desertion, shall be included in the protection given by the order.

10. Every order which shall be obtained by a wife under this chapter for the protection of her earnings or property, shall state the time at which the desertion, in consequence whereof the order is made, commenced; and the order shall, as regards all personal dealings with such wife in reliance thereon, be conclusive as to the time when such desertion commenced.

11. All persons and corporations who shall, in reliance on any such order, make any payment to, or permit any transfer or act to be made or done by the wife who has obtained the same, shall, notwithstanding such order may then have been discharged, be protected and indemnified in the same way in all respects as if, at the time of such payment, transfer or other act, such order were valid and still subsisting without variation, in full force and effect, and the separation of the wife from her husband had not ceased or been discontinued, unless at the time of such payment, transfer or other act, such person or corporation had notice of the discharge of such order.

CHAPTER 108.

OF DESERTED WIVES AND CHILDREN.

SECTION

- 1—Justices may apprehend any husband, &c. abandoning his wife, &c., and order security for maintenance.
- 2—In certain cases Justices may order the appropriation of portion of property, &c., for the support of party the subject of the order.

SECTION

- 3—Justices may compel the attendance of witnesses.
- 4—Meaning of terms in this chapter.
- 5—Husband dissipating his property, may be summoned by Justices.
- 6—Order affecting landed property to be registered.
- 7—Assignments to defeat chapter void.

1. Whenever a complaint on oath shall be made by a commissioner of the poor, or any other person, before any stipendiary Justice, that any husband has left destitute, abandoned, or deserted, or is about to leave destitute, abandon or desert his wife; that any parent has left destitute, abandoned or deserted, or is about to leave destitute, abandon or desert his infant child; or that any child has left destitute, abandoned or deserted, or is about to leave destitute, abandon or desert his

aged or infirm parent, the person so left destitute, abandoned or deserted, or about to be left destitute, abandoned or deserted, being destitute of the means of support, and likely to become a burden on the colony, and the party so leaving destitute, abandoning or deserting, or about to leave destitute, abandon or desert, having the means or ability to maintain such wife, child or parent, aforesaid, such Justice may, by summons or by warrant, cause the party so charged to be brought before him, and thereupon, if upon inquiry such complaint shall be sustained, such Justice may require the party charged as aforesaid to give security by bond to the stipendiary commissioner of the poor at St. John's, and his successors in office, for the support and maintenance of the person in relation to whom the charge is made; and in default of such order being forthwith obeyed, may sentence the party charged to imprisonment, with or without hard labor, for any period not exceeding thirty days: Provided that if after committal the party charged shall give such security, he shall be forthwith discharged; and every subsequent month's abandonment or desertion as aforesaid, shall be deemed a repetition of the first offence.

2. In any case where, upon any such complaint, it shall be made to appear upon such inquiry, and whether the party charged shall have been brought before such Justice or not, that the party charged has any property or money within the jurisdiction of the said Justice, or that he is in the receipt of any salary, allowance, pension or wages, such Justice may, if such order aforesaid be disobeyed, or cannot be made, by reason of the party charged not being brought before such Justice, make an order directing the appropriation of so much of such money or property as may be necessary, or the payment of a reasonable proportion of such salary, allowance, pension or wages towards the maintenance and support, from time to time, of the party the subject of such order; and such order shall be binding and obligatory upon all persons having notice thereof; and every employer or other person having the payment of such money, salary, allowance, pension or wages, shall conform to and obey the same, and in default of conformity and obedience thereto, may be compelled to pay the amount from time to time payable thereunder, with costs, in an action of debt to be brought and determined in a summary manner, in the name of the stipendiary poor commissioner at St. John's, before any stipendiary Justice.

3. The Justice may, for the purpose of such inquiry, compel the appearance by summons, and if necessary by warrant, of any third person,

and examine such person upon oath as to any such money, property, allowance, pension, or wages aforesaid.

4. The term "parent" in the preceding sections shall include a grand-parent, and the term "child" a grand-child.

5. Upon complaint upon oath being made before any stipendiary Justice that any husband or father having property is by habits of drunkenness dissipating his property, so as to expose his wife or children to the danger of destitution, such Justice may summon such husband or father before him, and inquire into the matter of such complaint, and if upon enquiry the same shall appear to be well founded, may make an order requiring such husband or father to give security to the stipendiary commissioner of the poor at St. John's, and his successors in office, for the maintenance of his family, and in default of such order being obeyed, may commit the offender to prison until he shall conform to such order or be discharged by due course of law. And the said Justice, where such security as aforesaid shall not be given, may, in lieu of committing such offender to prison, order that so much of the property of such offender as may be necessary be taken and applied to the maintenance of his family; and such last-mentioned order shall be carried into effect under the direction of the stipendiary poor commissioner, and shall be a justification in law for his proceedings thereunder; and the provisions of the second and third sections of this chapter shall be applicable to the object of this section.

6. Every such order made by a stipendiary Justice, affecting landed property, shall be registered in the registry of deeds for the district where such land may be situated; and, from the time of such order being deposited for registration, shall have the effect of a conveyance of such land by the owner thereof, for the purposes of such order: Provided that any stipendiary Justice of the district aforesaid may rescind any such order upon receiving such security as to him may appear sufficient, and also in cases in which it may not be deemed necessary longer to continue the operation of such order.

7. All deeds, assignments and conveyances of any lands or other property made, done or executed with the intent and purpose of defeating any attachment made in pursuance of this chapter shall be, and the same are hereby declared void, except in the case of a *bona fide* purchaser or grantee, for a valuable consideration, who shall not have been aware of or a party to such intent and purpose.

CHAPTER 109.

OF MASTERS AND SERVANTS.

SECTION

- 1—Contract and penalty for breach.
- 2—Absence of servant.
- 3—Master neglecting to perform his part of agreement.
- 4—Mode of proceeding, and penalty to be imposed on master.
- 5—Balance of wages to be paid in money.
- 6—Penalty for harboring servant.

SECTION

- 7—Penalty for sealer refusing to perform his agreement at sea.
- 8—Prices of outfits.
- 9—Employer not to deduct charge for liquor out of wages.
- 10—Medicine chest.
- 11—How sealing agreements to be executed, and with whom deposited.
- 12—Application of penalties.

1. When any person who shall have entered into a contract or agreement in writing, which shall be signed by both parties or their agent, and of which there shall be two parts so signed, one to be in the possession of the employer, and the other in the possession of the servant, for the performance of any duty within this colony, as fisherman, shoreman, shareman, sealer, or any other kind of service, whether agricultural, mechanical or otherwise, shall fail or refuse to perform such contract or agreement, any Justice may, upon complaint on oath of the employer of any such person or his agent being made before him, issue his warrant and cause such person to be apprehended and brought before him, and in case such person shall refuse to perform such contract or agreement, without showing sufficient excuse or cause therefor, such Justice may commit such person to prison for a period not exceeding thirty days: Provided that should such person, at any time before the expiration of the time for which he shall be committed consent to perform such contract or agreement, and his master consent to receive him back into his service, the said Justice shall forthwith discharge such person out of custody.

2. Any fisherman, shareman, shoreman, mechanical or other servant, who shall absent himself from his employer's service without leave, or refuse or neglect to perform his duty without sufficient cause, shall for every day's absence, refusal or neglect, forfeit and pay to his employer, who may deduct the same from his wages, a sum equal to twice the rateable proportion of his wages stated in his agreement in writing, for such time as he shall be absent or refuse or neglect to perform his service, in addition to any special damage and expenses

which the employer shall have sustained by reason of such absence, refusal or neglect, and which such employer may also deduct in manner aforesaid.

3. Any employer who shall, without reasonable cause, refuse or neglect to pay any fisherman, shareman or other servant, the amount or balance of his wages within three days after the same shall have been earned and become due, according to his agreement, (the same having been demanded,) shall forfeit and pay to such servant the wages current at the time for the number of days he may be kept out of his wages or balance, in addition to any special damage and expenses which such servant shall sustain by such refusal or neglect, to be recovered before any Court of Record or a Justice.

4. Should the employer of any such servant neglect or refuse to perform his part of such contract or agreement, any Justice shall, upon complaint being made upon oath by such servant, issue his summons, and in default of appearance cause such employer or agent to be brought before him; and in case such employer or agent shall refuse to perform such contract or agreement, without shewing a sufficient excuse therefor, such Justice may impose upon such employer a penalty not exceeding twenty dollars, to be levied on the goods and chattels of such employer by warrant of such Justice; and in case such warrant shall not be satisfied, the said Justice may issue his warrant to apprehend said employer and commit him to prison for a period not exceeding thirty days.

5. On the performance of such contract or agreement on the part of the servant, the balance of wages due thereon shall be paid in lawful current money of this colony to the person entitled thereto, any contract or agreement to the contrary notwithstanding.

6. If any person shall harbor or employ the servant of another, after notice of his being such servant, any Justice may, upon complaint upon oath, issue his warrant for the apprehension of such harborer or employer; and upon conviction, the said Justice shall impose upon such harborer or employer a penalty of not less than twenty dollars or more than forty dollars, to be levied on the goods and chattels of such harborer or employer in manner prescribed by the fourth section of this chapter; and, upon failure to recover such penalty, the said Justice shall commit the said harborer or employer to gaol in manner and for the time provided by the said section; and the said Justice shall also make an order on such harborer or employer for the payment by him to the first employer of the wages earned by such servant during the

time he was employed by the said harborer or employer, and which shall be recovered in the same manner and by the same process as is herein prescribed for the recovery of the penalty mentioned in this section, together with costs.

7. Any sealer who, by refusing to work or otherwise without sufficient reason, shall be a party to causing any master of a sealing vessel, while at sea, to give up the voyage before the time stated in the agreement for its duration and termination, shall, on conviction in a summary manner before any Justice, be imprisoned for a period not exceeding one month.

8. All outfits and supplies advanced to any fisherman, shoreman, shareman or other servant, shall be charged and paid for at the reasonable and current prices for outfits and supplies where the same shall be delivered.

9. In case any employer shall, during the service of such person, sell any intoxicating liquor to him, such employer shall not be entitled, in any such case, to deduct out of the wages or earnings of such person any charge or claim such employer may have or make for any liquor sold or delivered to such person at any time during his service; and no person shall recover any sum of money for any intoxicating liquor supplied to any such person during his service.

10. Every vessel employed in the seal or Labrador fisheries of this colony shall, before proceeding on any such voyage, be provided with a medicine chest containing a sufficient supply of medicine; and the master of every such vessel shall, on clearing for such voyage, be compelled to produce to the Collector or sub-Collector a certificate under the hand of some respectable medical practitioner or druggist, of such vessel being provided with a sufficient medicine chest as aforesaid, or otherwise satisfy such Collector or sub-Collector of the fact.

11. In all agreements with sealing crews aforesaid there shall be two parts, respectively signed by the master and the crew; and one part shall remain with the master or owner, and the other part shall be left with any one of the crew who shall be selected by them, or a majority of them for that purpose, or shall be posted and kept in some conspicuous part of the ship.

12. All penalties imposed under this chapter shall be paid to the party proceeding for the same, and all proceedings under this chapter shall be prosecuted and conducted in a summary manner, before any one or more Justice or superior Court, and such Justice or Court may compel the attendance of witnesses and the production of all necessary documents.

CHAPTER 110.

OF MINORS AND APPRENTICES.

SECTION

- 1—Justices shall approve by writing indentures of apprenticeship. Effect thereof.
 2—Proceedings where master ill-uses indentured apprentice or apprentice misbehaves. Penalty.

SECTION

- 3—Executor or administrator of deceased master not bound to maintain apprentice beyond one month after death of master.
 4—Penalty for harboring apprentice.
 5—Application of penalties.

1. Any Justice shall, upon application made to him, consent to and approve by writing, under his hand, of an indenture of apprenticeship that shall be produced before him: Provided upon examination he shall be satisfied of the good moral character and other requisite fitness of the proposed master or mistress; whereupon such indenture shall be as binding upon the master or mistress, apprentice and all parties concerned, as if such master or mistress, apprentice or other parties had been at the time of the execution of such indenture of full age.

2. If any master or mistress of an indentured apprentice shall misuse or ill-treat his or her apprentice, or if the apprentice shall not do his or her duty, or if either party shall have cause of complaint against the other, any Justice within the town or district where the master or mistress resides shall, upon such complaint being made upon oath before him, cause the parties and their witnesses to be brought before him by summons or warrant, and if, upon enquiry into such complaint, default shall be found in the master or mistress, such Justice may either impose a fine upon him or her not exceeding five dollars, to be levied by distress and sale of the offender's goods and chattels, or discharge such apprentice from his apprenticeship, upon which discharge being made in writing under the hand of such Justice, the indenture shall be void; and if default shall be found in the apprentice, such Justice shall order such abatement to be made out of his or her wages or allowance, or cause the apprentice (if a male) to be imprisoned, with or without hard labor, for any period not exceeding ten days; and in addition to such abatement or imprisonment, such Justice may discharge the apprentice by writing under his hand, whereupon the indenture shall be void.

3. Nothing in any indenture of apprenticeship shall be of any force

or effect to require the executor or administrator of a deceased master or mistress to keep or maintain the apprentice more than one month after the death of such master or mistress, and at the expiration of such month the indenture shall be void.

4. Any person harboring an indentured apprentice after notice, shall be liable to a penalty not exceeding fifty dollars, to be recovered before any Justice in a summary proceeding, and by levy under his warrant of the offender's goods and chattels; and if such warrant shall not be satisfied, the Justice may commit such offender to gaol for any period not exceeding twenty days.

5. All penalties imposed under this chapter shall be paid to the party making the complaint, or on whose behalf the same shall have been made.

TITLE XXIX.

Of the Poor.

CHAPTER 111.

OF MENDICANT AND INFIRM IMMIGRANTS.

SECTION 1.—Master of vessel landing paupers, &c., in this colony liable to fine.

1. Any master of a vessel or other person who shall land in any place in this colony or its dependencies any person who, at the time of such landing, shall from sickness, age, infirmity, or want of means of support become chargeable to the Government, shall be subject to a penalty of one hundred dollars, to be recovered in a summary manner with costs before a stipendiary Justice, in an action to be brought in the name of and by the stipendiary commissioner of the poor, and paid over to the Receiver General for the use of the colony; and in default of payment, such master or other person may be imprisoned for a period not exceeding three months. No conviction under this chapter shall be removable by *certiorari* or otherwise.

CHAPTER 112.

OF ILLEGITIMATE CHILDREN.

SECTION

- 1—Proceedings on complaint of woman against person having gotten her with child.
- 2—Provisions of second section of chapter "Of Deserted Wives and Children" to apply to first section.
- 3—Party charged may relieve himself by payment of \$100.

SECTION

- 4—Mothers refusing to support their illegitimate children may be imprisoned.
- 5—Continued refusal to support construed a new offence.
- 6—Appeal in case of affiliation.
- 7—Punishment on false charge.
- 8—Commissioners of poor to control management of children supported by the colony.

1. Whenever a complaint, on oath, shall be made before any Justice by any woman charging any person with having gotten her with child, which child is likely to be born a bastard and become chargeable to the colony; and whenever a complaint on oath shall be made by any person charging any other person with being the father of an illegitimate child, chargeable or likely to become chargeable to the colony, such Justice shall issue his warrant and cause the party charged to be brought before him; and if upon enquiry such charge shall be sustained, and it shall not appear that the mother of the child was a common prostitute, such Justice shall make an order affiliating such child upon the party charged, and requiring security by bond to the stipendiary commissioner of the poor at St. John's and his successors in office, to be given for the support and maintenance of such child until it shall have arrived at the age of ten years, or shall die or be satisfactorily provided for; and in case such order shall not be forthwith obeyed, such Justice may sentence the party charged to imprisonment in the common gaol, with hard labor, for any period not exceeding six months: Provided that if after committal the party charged shall give such security, he shall be forthwith discharged; and where the Justice shall deem it reasonable in the case of a child not already born, final order upon the charge may be postponed until after the birth of the child, the party charged giving security to abide any order to be made against him.

2. The provisions and proceedings mentioned and contained in the second and third sections of chapter one hundred and eight of these consolidated statutes, entitled "Of Deserted Wives and Children," shall be applicable and may be put in force and carried out in all cases coming within the operation of the first section of this chapter.

3. Any person upon whom an order of affiliation shall have been made, as aforesaid, may relieve himself from all obligation thereunder by the payment to such Justice, for the Receiver General of the colony, of the sum of one hundred dollars.

4. Every mother of an illegitimate child who, having the ability to labor or any means of supporting it, shall neglect or refuse to support and maintain such child, or shall abandon, desert, or leave it in any place, shall, upon conviction in a summary manner before any Justice, be subject and liable and may be sentenced to imprisonment, with or without hard labor, in the common gaol, for any period not exceeding six months; and such Justice may, upon complaint on oath being made before him of the commission by any woman of such offence, issue his warrant for her apprehension, in order to a conviction for the same.

5. The continued neglect or refusal to support and maintain such child by its mother, for any subsequent month after a first conviction for such offence, shall be held and deemed to be a new offence, and shall be dealt with and punished in manner hereinbefore provided with respect to a first offence.

6. Any person charged by any woman or other person with being the father of an illegitimate child, and being convicted thereof by a Justice, may, upon giving security to abide the final determination of the case and to pay the costs thereof if finally convicted, appeal from the order of affiliation to the Court of General Quarter Sessions for the district, before whom the matter in issue shall be determined by the jury in attendance for the trial of other matters: Provided that if upon such trial, it be satisfactorily proven that the mother of the child was a common prostitute, and the jury shall find such fact, such finding shall be equivalent to a finding of not guilty on the main charge.

7. If any mother of an illegitimate child or any other person shall falsely and fraudulently charge any person with being the father of such child, such mother or other person, upon conviction of such offence in a summary manner before any stipendiary Justice, shall be sentenced to imprisonment in the common gaol, with hard labour, for any period not exceeding six months.

8. The stipendiary commissioner of the poor shall have the control and management of the illegitimate children supported by the colony, and apprentice them when of competent age, or otherwise provide for them.

TITLE XXX.

Of the Protection of Sheep and Agricultural Pursuits.

CHAPTER 113.

OF THE PRESERVATION OF SHEEP AND OTHER ANIMALS.

SECTION

- 1—Dogs to be clogged.
- 2—Pointers and setters to be licensed. Terriers and spaniels.
- 3—Dogs maiming sheep, &c., may be destroyed. Owners of sheep may sue.
- 4—Justice may determine complaints for injury by dogs.
- 5—Justice may order dog to be destroyed.
- 6—Any person bitten by dogs may proceed before Justice.
- 7—Owners of sheep, &c., may bring actions, &c.
- 8—Annual statement of sheep killed to be

SECTION

- prepared by Magistrates. Rate, &c. Appropriation of rate.
- 9—Rate payable once a year.
- 10—Constable may distrain for rate.
- 11—If no chattels, may destroy dogs.
- 12—Persons may avoid rate by destroying their dogs.
- 13—Duties of constables.
- 14—Constables, &c., to receive fifty cents for each dog destroyed.
- 15—Annual account of license fees and rates to be rendered.
- 16—Fines and penalties, how recovered.

1. Every dog found at large, without its owner or other person in charge thereof, is required to have fastened to its neck a clog, or piece of wood of not less than seven pounds weight, and not less than eighteen inches in length, with the name of the owner stamped or marked thereon, or to be effectually muzzled; and every dog so found at large, without its owner or other person in charge thereof, and not clogged or muzzled as aforesaid, may be immediately shot or otherwise destroyed by any person: Provided that this section shall not apply to pointers, setters, spaniels and terriers licensed by the Magistrate as hereinafter provided.

2. No person shall have in his possession any pointer or setter; spaniel or terrier dog, without obtaining a written license from a stipendiary Magistrate, under a penalty not exceeding twenty dollars, such license to be given only after an inspection of such dogs by the said Magistrate. All such dogs so licensed shall wear a collar with the owner's name in full thereon, and such owners shall pay for every such license the sum of two dollars per annum for each dog, and for every spaniel or terrier a free license may be granted. Nothing in

this chapter contained shall exempt any dogs so licensed, or the owners thereof, from the provisions of the following sections.

3. Every dog discovered killing, maiming or worrying sheep, lambs, horses, goats, or cattle of any description, may be immediately shot or otherwise destroyed by the owner of such sheep, lambs, horses, goats or cattle, or by any person who may witness such killing, maiming or worrying; and nothing herein contained shall prevent the owner of such sheep, lambs, horses, goats, or cattle of any description, killed, maimed or injured, from recovering the value of the same in the manner hereinafter mentioned.

4. If any dog shall kill, maim, or injure any sheep, lamb, horse, goat, or cattle of any description, any Justice shall, upon complaint made by the owner thereof, or by any person in his behalf, issue his warrant against the owner of such dog, to appear before him on a day certain; and such Justice may proceed to hear the said cause or complaint, and, if he shall see fit, give judgment therein for the value of each and every sheep, lamb, horse, goat, or cattle of any description so killed, maimed, or injured, with costs, and enforce the payment of such judgment by execution or distress on the goods and chattels of the defendant; and should no goods or chattels of the defendant wherewith to satisfy such judgment and costs be found, the said Justice may commit such defendant to gaol, for any period not exceeding thirty days.

5. The said Justice may, upon hearing the said complaint, besides such judgment, make his order in writing that the dogs so killing, maiming or injuring as aforesaid, be forthwith destroyed.

6. If any dog shall bite or otherwise injure any person, such person may proceed before any Justice and recover damages for the injury in the mode prescribed by the fourth section of this chapter, and such Justice may make an order for the destruction of such dog, or such person may proceed by an action in any Court of competent jurisdiction; and it shall not be necessary in such action for such person to aver or prove that the defendant had knowledge of the mischievous propensities or habits of said dog.

7. Nothing herein contained shall prevent the owner of any sheep, lambs, horses, goats or cattle of any description from proceeding by action in any Court of competent jurisdiction to recover the value of any such sheep, lambs, horses, goats or cattle or any special damage arising to such owner from the killing, maiming or injuring such sheep, lambs, horses, goats or cattle; and it shall not be necessary in

such action for the plaintiff to aver or prove that the defendant had knowledge of the mischievous propensities or habits of said dogs.

8. The stipendiary Magistrates of the several districts are hereby required once in each year to prepare a statement, from information furnished on the oaths of the owners of all sheep, lambs, cattle, horses and goats destroyed in their respective districts by dogs, of the number and value of such sheep, lambs and cattle, horses and goats, and the names of the respective owners ; and the said Magistrates, upon consideration of the said statement, shall order a rate to be levied on the owners of dogs not exceeding one dollar for each dog owned by any person residing within such distance from the place where any such sheep, lambs, cattle, horses or goats may have been destroyed by dogs in the course of the year then preceding as the said Magistrate may determine ; such rate, when collected, to be appropriated towards indemnifying the owners of such sheep, lambs, cattle, horses or goats so destroyed for the loss they may have sustained and for all incidental expenses, in the event of such owners being unable to obtain such indemnity from the owner of dogs doing the damage : Provided that the owner of any dog for and in respect of which the license fee mentioned in the second section may have been paid, shall not be subject to the rate mentioned in this section.

9. The said rate shall be payable only once in each year, at such times as may be stated in orders to be made in pursuance of the foregoing section ; and it shall, if necessary, be recovered by warrant of distress, to be issued by the Magistrate making such orders.

10. Any constable to whom a warrant issued under the preceding section may be directed, shall demand and collect the same from all owners of dogs within the limits prescribed in such warrant ; and in the event of non-payment within fourteen days from the first demand, the constable holding such warrant may recover the amount of such rate and all expenses from the owners of such dogs by distress of the goods and chattels of such owners, and a sale thereof within five days from the time of such distraint.

11. Any constable holding a warrant issued under this chapter, and not being able to find goods or chattels of the person against whom such warrant may be directed sufficient to satisfy the exigencies thereof, may forthwith destroy or cause to be destroyed any dog owned by such person and in respect of which such warrant may have issued.

12. Any person upon whom any rate may be levied, in pursuance

of this chapter, may, at any time previously to the sale prescribed by the tenth section, relieve himself of all liability for and in respect of such rate, by destroying or causing to be destroyed, or delivering up to any constable for the purpose of being destroyed, any dog owned by such person and in respect of which such rate may have been levied.

13. The police constables in the several districts shall carry out the provisions of this chapter by the destruction of all dogs found at large and not clogged, muzzled, or licensed; and any constable refusing or neglecting to destroy such dogs shall for the first offence be subject to a fine of four dollars, and for a second or subsequent offence shall be subject to a fine not exceeding twenty dollars.

14. A police constable or any other person shooting or otherwise destroying dogs under the provisions of this chapter shall, on proof thereof before a stipendiary Magistrate, receive the sum of fifty cents for each dog so destroyed, which sum shall in each case be paid (out of funds to be provided by the Government and the license money as aforesaid) by the Clerk of the Peace for the district where such dog may be destroyed.

15. Every Magistrate shall, once in each year, furnish to the Receiver General an account of all license fees and rates received by him, and of the disposal thereof, and shall pay over to the Receiver General any license fees not applied by him to the purposes of this chapter, under a penalty not exceeding fifty dollars.

16. Fines and penalties under this chapter may be recovered in a summary manner, as an ordinary debt, by any one who shall inform and sue for the same.

CHAPTER 114.

OF THE PREVENTION OF CATTLE DISEASE.

SECTION

1—Governor to make rules to prevent introduction of cattle disease.

SECTION

2—Governor may issue orders, &c.
3—Penalty on violation of orders.

1. The Governor in Council may make rules and regulations for preventing the introduction or spreading of any contagious or infectious disease among horses, cattle, pigs and sheep in this colony, such rules to be promulgated and published in the *Royal Gazette*.

2. The Governor in Council may issue orders to the Receiver General, or other proper officer of her Majesty's Customs, to prevent the landing, in any port or place in this colony, of horses, cattle, pigs, or sheep, having any contagious or infectious disease, and to order the immediate removal and, if necessary, the destruction of the same.

3. Any person who shall infringe or violate any rule or order made by the Governor in Council in pursuance of this chapter, shall forfeit and pay, for each offence, a sum not exceeding one hundred dollars, to be recovered in a summary manner before any stipendiary Justice, upon the oath of one or more witnesses, and in default of payment such offender may be imprisoned for any term not exceeding three months.

CHAPTER 115.

OF KILLING WOLVES.

SECTION

1—A reward of \$12 to be paid for each wolf killed.

2—Justices to give certificate.

SECTION

3—Return of such certificates to be laid before the Legislature.

4—Limitation of chapter. Schedule.

1. Any person who shall produce or cause to be produced before any Justice the skin of a wolf recently killed within this colony, and shall make and subscribe, or cause to be made and subscribed, a declaration in manner and form as in schedule A of this chapter, that the same was killed by or for such person, such person so applying shall be paid a reward of twelve dollars; and if any declaration so made shall be false, the person wilfully making such false declaration shall be guilty of a misdemeanor.

2. Such Justice shall, on such proof being exhibited, detain or destroy the said skin, and give to the person applying a certificate as in schedule B of this chapter, which being laid before the Colonial Secretary, the Governor shall issue his warrant for the payment from the treasury of the colony of the said sum of twelve dollars.

3. There shall be laid before the Legislature at the opening of every session, a return of the number of such certificates so presented to the Colonial Secretary, with the name and residence of the Justice certi-

fyng, and the name and residence of the party to whom such reward was thereby made payable.

4. The Governor in Council may, by proclamation, at any time declare this chapter in operation in any district of this colony, and to remain in operation for such length of time as the said proclamation may prescribe: Provided that this chapter shall not come into operation until such proclamation be made.

SCHEDULE A.

I, A. B., of _____ in the district of _____
do solemnly declare that I (or A. B., of _____ in the
district of _____ in my presence) on the _____ day of
_____ in the year of our LORD
at _____ in the district of _____ within the Island of
Newfoundland, did kill a wolf, the skin of which I have deposited with
A. B., Esquire, Justice of the Peace for the _____ district of
Newfoundland.

B.

I, A. B., Justice of the Peace for the _____ district of
Newfoundland, do hereby certify that A. B., of _____
in the district of _____ within the colony of Newfoundland,
came before me and deposited with me the skin of a wolf, and being
examined did solemnly declare the same was killed on
the _____ day of _____ in the year
_____ by him (or by A. B., in his presence), at
in the district of _____
Given under my hand this _____ day of
in the year of our LORD _____
A. B.

TITLE XXXI.
Of the Game Laws.

CHAPTER 116.

OF THE PRESERVATION OF WILD FOWL, DEER, HARES, RABBITS, ETC.

SECTION

- 1—Partridge not to be killed between 25th January and 1st September.
- 2—Rabbits, hares, &c., not to be killed between 1st March and 1st September.
- 3—Deer not to be killed between first March and fifteenth July.
- 4—Nor by slips, &c.
- 5—Eggs of wild birds not to be destroyed.
- 6—Penalty.
- 7—Protection of imported hares, &c.

SECTION

- 8—Fire arms on Sunday unlawful.
- 9—Possession of game killed out of season.
- 10—Constables empowered to search.
- 11—Search warrant.
- 12—Married women liable.
- 13—Penalty on resisting constable.
- 14—Offence, how punished.
- 15—Chapter not to extend to poor settler.
- 16—Constable may arrest on view.

1. No person shall hunt, kill, take, purchase, sell, barter or give away any ptarmigan, grouse, partridge, snipe, blackbird, or any other wild or migratory bird (except wild geese) within this colony or its dependencies, from the twenty-fifth day of January until the first day of September, in any year.

2. No person shall hunt, kill, take, purchase, sell, barter, or give away any wild rabbit or hare, within this colony and its dependencies, from the first day of March to the first day of September, in any year.

3. No person shall kill or destroy any deer within this colony, from the first day of March to the fifteenth day of July in any year.

4. No person shall kill, take or destroy any deer by slips, pitfalls, traps or spears, under a penalty of twenty dollars for every offence.

5. No eggs of any kind of birds before mentioned (except wild geese) shall be taken, purchased, or destroyed at any time, under a penalty of not less than two dollars, nor exceeding two hundred dollars; and, for the purposes of this chapter, all such birds and animals before mentioned are hereby declared to be game.

6. Any person who shall be found at any time hunting for game within the periods mentioned in the second and third sections, shall be liable to a penalty not exceeding twenty-five dollars.

7. During the period of five years from the future importation of

any quails or other game into this island, no person shall hunt, take, kill or carry them away, or any of their progeny, under a penalty not exceeding twenty-five dollars. No person shall, under a like penalty, hunt, take or purchase any wild hare or rabbit imported or the progeny of any imported into this colony, and placed or carried into any district, within five years thereafter: Provided that with the permission of a stipendiary Magistrate such rabbit or hare may be taken alive at any time and in any district for the purpose of distribution.

8. Any person, except a traveller on a journey, found on Sunday using or carrying fire-arms, shall be subject to a fine not exceeding four dollars.

9. No person shall have in his possession any of the said animals or birds unless killed within the periods above respectively fixed for the killing thereof, the burden of proof whereof, is to be on the party charged.

10. Any constable or peace officer shall search any person whom he may have good cause to suspect of coming from or going to any land where he may have been unlawfully in search of or shooting any game; and such constable or peace officer shall also stop and search any cart or other conveyance in or upon which such constable or peace officer may have good cause to suspect that any game is being carried by any such person, and, should any game be found upon such person, cart or conveyance, seize and detain said game; and such constable or peace officer shall, in such case, apply to a Justice for a summons, citing such person to be dealt with according to the provisions of this chapter.

11. A Justice shall, on information in writing being lodged with him of any person having secreted in his house or other building any game in violation of the provisions of this chapter, issue his warrant to any constable or peace officer to search therein; and should any such game be found therein such constable or peace officer shall seize and detain the same, and shall cite such offender before such Justice to be dealt with according to the provisions of this chapter.

12. Married women concerned in any breach of the provisions of this chapter shall be liable for the penalty thereto attaching as if they were unmarried women or principals, but the husband of the person so offending shall not be liable to be sued for the same offence. In the case of married women, the fine may be levied on the property of the husband.

13. Any person resisting any constable or peace officer engaged in

carrying out the provisions of this chapter shall be liable to a penalty not exceeding twenty-five dollars.

14. Offences against the provisions of this chapter shall be punished summarily, on information and conviction before a Justice ; and, when not hereinbefore specially provided for, by a fine not exceeding twenty-five dollars, nor less than two dollars, for each head of game killed or in the possession of said offender, in the discretion of such Justice, with costs, together with the forfeiture of such game. All fines by this chapter imposed may be levied on the goods and chattels of such offender ; and in case he shall not have any goods and chattels on which to levy such fines and costs, or in case he shall make default in the payment thereof, he may be imprisoned for a term not exceeding one month ; one half the fine to go to the informer, the remainder to the Receiver General for the use of the colony.

15. Nothing in this chapter shall extend to any poor settler who shall kill any game for his own immediate consumption, or that of his family.

16. Any constable or peace officer may arrest, on view, any person found in any way violating the provisions of this chapter.

TITLE XXXII.

CHAPTER 117.

OF THE PROMULGATION, ETC., OF THESE CONSOLIDATED STATUTES, AND THE REPEAL OF FORMER ENACTMENTS.

SECTION

- 1—Acts of present session may be incorporated with these statutes. Language may be simplified, and table of contents and index to these statutes added.
- 2—Copy to be deposited with Colonial Secretary.
- 3—Governor may, by proclamation, declare time at which these statutes shall come into operation.

SECTION

- 4—Designation of statutes. Repeal of former statutes.
- 5—Governor may direct certain matters to be annexed to volume of consolidated statutes.
- 6—Certain copies of consolidated statutes to be evidence.
- 7—How act to be cited.

1. The Governor in Council may direct that the acts passed during the present session of the Legislature be incorporated with these consolidated statutes, that their form and language be adapted to those of the said statutes, (but without changing their effect,) that they be inserted in their proper places in the said statutes, and that any

enactments repealed by or inconsistent with those so incorporated be struck out of the said statutes, and also, that the numbering of the titles, chapters and sections of the said statutes be altered or amended where and as required, and that where deemed advisable the language of the said sections may be simplified (but without any alteration in the meaning thereof) by striking out unnecessary words, and that a list of the acts of the present session so incorporated be added to the schedule to this chapter annexed, and a table of contents and an index to the volume of consolidated statutes.

2. The Governor in Council may, after the incorporation of the said acts with the said statutes, and the said addition to the schedule, and the addition of the said table of contents and index to the said volume, cause a correct printed copy of the said consolidated statutes, attested under his signature and countersigned by the Colonial Secretary, to be deposited in the office of the Colonial Secretary, which copy shall be held to be the original thereof, any marginal notes, notes at heads of chapters and references to former enactments which may appear thereon, being held to form no part of the said statutes, but to be inserted for convenience of reference only.

3. The Governor in Council may, after such deposit of the last-mentioned copy, by proclamation, declare the day on, from and after which the same shall come into force and have effect as law, by the designation of "The Consolidated Statutes of Newfoundland."

4. On, from and after such day, the same shall accordingly come into force and effect, as and by the designation of "The Consolidated Statutes of Newfoundland," to all intents as though the same were expressly embodied in and enacted by this chapter, to come into force and have effect on, from, and after such day; and on, from and after the same day, all the enactments in the several acts and parts of acts in such amended schedule mentioned as repealed, shall stand and be repealed: Provided that where any act not comprised in the schedule has been repealed, confirmed, revived or perpetuated by any enactment hereby repealed, such repeal, confirmation, revivor or perpetuation, shall not be affected by the repeal effected by this chapter; and the repeal by this chapter of any enactment shall not affect any act in which such enactment has been applied, incorporated or referred to; and this chapter shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any existing status or capacity, or any right or title already acquired or accrued, or any remedy or proceeding in respect thereof, or any release or discharge of or from

any debt, penalty, claim or demand, or any indemnity, or the proof of any past act or thing. Nor shall this chapter affect any principle or rule of law or equity, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, franchise, liberty, custom, privilege, restriction, exemption, office, appointment, payment or emolument, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed. Bonds and securities given by the parties appointed under any act, at any time, passed and hereby repealed, shall not be affected by such repeal, but remain in full force.

5. The Governor in Council may direct that acts or parts of acts of the Parliament of Great Britain and Ireland, proclamations, treaties or other public documents which he may select from those in force in this colony, be printed and annexed to and distributed with the printed copies of these consolidated statutes.

6. Copies of the said consolidated statutes, printed by authority of the Governor in Council from the amended copy so deposited in the office of the Colonial Secretary, shall be received as evidence of the said consolidated statutes in all Courts and places whatsoever.

7. This act may be cited as the "Consolidated Statutes," adding, when necessary, the number of the chapter and section.

SCHEDULE.

- 3 Wm. 4, Cap. 1, March 27, 1833. An act to provide for the performance of quarantine, and more effectually to provide against the introduction of infectious or contagious diseases and the spreading thereof in this island.
- 3 Wm. 4, Cap. 2, March 27, 1833. An act to prevent dangerous quantities of gunpowder being kept within the town of St. John's.
- 3 Wm. 4, Cap. 4, April 17, 1833. An act to establish and regulate fire companies in the town of Harbor Grace.
- 3 Wm. 4, Cap. 5, April 17, 1833. An act to regulate the streets of the town of Harbor Grace.
- 3 Wm. 4, Cap. 6, April 17, 1833. An act to declare the qualification and character of persons admitted to practice as barristers and attorneys of the Supreme Court of this island.
- 3 Wm. 4, Cap. 8, May 31, 1833. An act for the more speedy abatement of nuisances.

An act to repeal the laws now in force concerning the celebration of marriages, and to regulate the further celebration of marriages in this island. ³ Wm. 4, Cap. 10, July 8, 1833.

An act to amend an act of the General Assembly, entitled "An act to regulate the streets of the town of Harbor Grace." ⁴ Wm. 4, Cap. 2, August 1, 1833, (2nd Session.)

An act to prevent dangerous quantities of gunpowder being kept within the town of Carbonear. ⁴ Wm. 4, Cap. 4, August 1, 1833, (2nd Session.)

An act to amend an act of the General Assembly of this island, passed in the third year of his present Majesty's reign, entitled "An act to establish and regulate fire companies in the town of Harbor Grace." ⁴ Wm. 4, Cap. 5, August 1, 1833, (2nd Session.)

An act to annex Broad Cove and other places therein mentioned to the district of St. John's. ⁴ Wm. 4, Cap. 6, August 1, 1833, (2nd Session.)

An act to regulate the cutting of channels in the ice in the various ports and harbors of this island. ⁴ Wm. 4, Cap. 3, June 12, 1834, (2nd Session.)

An act to prevent dangerous quantities of gunpowder being kept within the town of Harbor Grace, and to provide for the safe storing of the same. ⁴ Wm. 4, Cap. 3, June 12, 1834, (2nd Session.)

An act for the establishment of light houses. ⁴ Wm. 4, Cap. 4, June 12, 1834, (2nd Session.)

An act to provide for banishment of persons convicted of certain offences, and also to provide certain modes of punishment in divers criminal cases. ⁴ Wm. 4, Cap. 5, June 12, 1834, (2nd Session.)

An act to regulate the making and repairing of roads and highways in this island. ⁴ Wm. 4, Cap. 6, June 12, 1834, (2nd Session.)

An act to provide for the maintenance of bastard children. ⁴ Wm. 4, Cap. 7, June 12, 1834, (2nd Session.)

An act to afford relief to wives and children deserted by their husbands and parents. ⁴ Wm. 4, Cap. 8, June 12, 1834, (2nd Session.)

An act to regulate the standard of weights and measures, and to provide for the surveying of lumber. ⁴ Wm. 4, Cap. 9, June 12, 1834, (2nd Session.)

An act for the establishment of a savings bank in Newfoundland. ⁴ Wm. 4, Cap. 10, June 12, 1834, (2nd Session.)

An act for the relief of insolvent debtors taken in execution. ⁴ Wm. 4, Cap. 11, June 12, 1834, (2nd Session.)

- 4 Wm. 4, Cap. 12, June 12, 1834, (2nd Session.) An act to regulate the rate of interest in this island.
- 4 Wm. 4, Cap. 13, June 12, 1834, (2nd Session.) An act for ascertaining the damages to be paid upon protested bills of exchange.
- 4 Wm. 4, Cap. 15, June 12, 1834, (2nd Session.) An act for registering the names of persons entitled to vote at elections.
- 4 Wm. 4, Cap. 18, June 12, 1834, (2nd Session.) An act for declaring all landed property in Newfoundland real chattels.
- 4 Wm. 4, Cap. 19, June 12, 1834, (2nd Session.) An act to explain certain acts passed for the safe keeping of gunpowder, and to remove doubts respecting the same.
- 4 Wm. 4, Cap. 21, June 12, 1834, (2nd Session.) An act for ascertaining the time of the commencement of the acts of the parliament of this colony.
- 5 Wm. 4, Cap. 5, May 8, 1835, (2nd Session.) An act to amend an act passed in the second session of the parliament of this colony, entitled "An act to regulate the repairing and making of roads and highways in this island."
- 5 Wm. 4, Cap. 9, May 8, 1835, (2nd Session.) An act to prevent the unnecessary discharging of guns and other fire-arms in the towns of St. John's, Harbor Grace, Carbonear, Port-de-Grave and Brigus, and the suburbs thereof.
- 5 Wm. 4, Cap. 12, May 8, 1835, (2nd Session.) An act to regulate the streets of the town of Carbonear.
- 6 Wm. 4, Cap. 1, March 30, 1836. An act for the relief of sick and disabled seamen, fishermen and other persons.
- 6 Wm. 4, Cap. 5, May 6, 1836. An act to amend an act passed in the fourth year of his Majesty's reign, entitled "An act for declaring all landed property in Newfoundland real chattels."
- 6 Wm. 4, Cap. 7, May 6, 1836. An act to limit the duration of the present and all future Houses of Assembly in this colony.
- 6 Wm. 4, Cap. 10, May 6, 1836. An act to make perpetual an act passed in the fourth year of his Majesty's reign, entitled "An act for the relief of insolvent debtors taken in execution."
- 6 Wm. 4, Cap. 11, May 6, 1836. An act for preventing the mischiefs arising from the printing and publishing books, newspapers and papers of a like nature by persons unknown, and to regulate the printing and publishing the same.
- 1 Vic., Cap. 4, Nov. 18, 1837. An act to extend the criminal laws of England to this colony under certain modifications,

An act for the regulating of the service of merchant sea- 1 Vic., Cap. 9,
men engaged in the vessels of this colony. Nov. 18,
1837.

An act to preserve the harbors and roadsteads of New- 2 Vic., Cap. 7,
foundland and its dependencies from nuisances and obstruc- Oct. 25,
tions. 1838.

An act to encourage the killing of wolves in this colony. 3 Vic., Cap. 1,
Sept. 14,
1839.

An act to provide for the safe keeping and due collection 3 Vic., Cap. 3,
of the colonial revenue of customs. Oct. 12,
1839.

An act to establish the fees and costs chargeable in the 3 Vic., Cap. 3,
several police offices and courts of session in this colony. April 29,
1840, (2nd
Session.)

An act to authorize the Sheriff of Newfoundland to levy 4 Vic., Cap. 3,
executions in the several districts of this colony after final April 26,
judgment. 1841.

An act to establish and regulate fire companies in the 4 Vic., Cap. 4,
town of Carbonear. April 26,
1841.

An act to revive an act passed in the fourth year of the 4 Vic., Cap. 7,
reign of his late Majesty King William the Fourth (2nd April 26,
session) entitled "An act to afford relief to wives and chil- 1841.
dren deserted by their husbands and parents."

An act to revive an act passed in the third year of the 4 Vic., Cap. 9,
reign of his late Majesty King William the Fourth, entitled April 26,
"An act to provide for the performance of quarantine, and 1841.
more effectually to provide against the introduction of
infectious or contagious diseases and the spreading thereof
in this island."

An act for the establishment and support of a grammar 6 Vic., Cap. 7,
school at Harbor Grace. May 22,
1843.

An act to authorize the Governor to appoint commis- 6 Vic., Cap. 8,
sioners for the appropriation of certain moneys granted to May 22,
her Majesty for the establishment of a grammar school at 1843.
Carbonear and remaining unappropriated, and to make fur-
ther provision for the support of the said school.

An act to repeal an act passed in the fifth year of the 6 Vic., Cap. 10,
reign of his late Majesty, entitled "An act to amend the May 22,
law of attachment and to facilitate the recovery of debts 1843.
from absent or absconding debtors, and to make other pro-
vision for the amendment of the law of attachment."

- 6 Vic., Cap. 12, An act to extend and continue certain provisions of an
May 22,
1843. act of the parliament of the United Kingdom, passed in the
second and third year of the reign of his late Majesty King
William the Fourth.
- 6 Vic., Cap. 17, An act to render perpetual an act passed in the third year
May 22,
1843. of the reign of his late Majesty, entitled "An act to provide
for the performance of quarantine, and more effectually to
provide against the introduction of infectious or contagious
diseases and the spreading thereof in this island."
- 6 Vic., Cap. 18, An act to amend and revive an act passed in the third
May 22,
1843. year of the reign of her present Majesty, entitled "An act
to establish the fees and costs chargeable in the several
police offices and Courts of session in this colony."
- 6 Vic., Cap. 21, An act to suspend the operation of an act passed in the
May 22,
1843. fourth year of the reign of her present Majesty, entitled
"An act to establish and regulate fire companies in the town
of Carbonear."
- 6 Vic., Cap. 22, An act to commute the fees received by the high Sheriff
May 22,
1843. of this colony and to provide for the salaries of the said
Sheriff and his deputies.
- 7 Vic., Cap. 1, An act to make provision for the disposal and sale of
April 29,
1844. ungranted and unoccupied crown lands within the island of
Newfoundland and its dependencies and for other purposes.
- 7 Vic., Cap. 2, An act to amend an act passed in the fourth year of his
April 29,
1844. late Majesty's reign, entitled "An act for the relief of insol-
vent debtors taken in execution."
- 7 Vic., Cap. 3, An act to provide for the establishment of an academy at
April 29,
1844. St. John's.
- 7 Vic., Cap. 5, An act for the maintenance of a light house on Cape Pine.
April 29,
1844.
- 7 Vic., Cap. 13, An act to provide for the collection and appropriation of
April 29,
1844. all moneys stopped or detained by any person or persons
by virtue of the provisions of an act passed in the sixth
year of the reign of his late Majesty, entitled "An act for
the relief of sick and disabled seamen, fishermen and other
persons, and not appropriated to the purposes of the said
act."
- 8 Vic., Cap. 5, An act to continue and amend an act passed in the fourth
April 23,
1845. year of the reign of her present Majesty, entitled "An act
to regulate the packing and inspection of pickled fish for
exportation from this colony."

An act to amend an act passed in the seventh year of the reign of her present Majesty, Queen Victoria, entitled "An act to make provision for the disposal and sale of ungranted and unoccupied crown lands within the island of Newfoundland and its dependencies, and for other purposes."

8 Vic., Cap. 6,
April 23,
1845.

An act for the regulation of ferries.

8 Vic., Cap. 8,
April 23,
1845.

An act to amend an act passed in the fourth year of the reign of his late Majesty, entitled "An act to amend an act of the General Assembly, entitled 'An act to regulate the streets of Harbor Grace.'"

8 Vic., Cap. 12,
April 23,
1845.

An act for the protection of the breeding of wild fowl in this colony.

8 Vic., Cap. 13,
April 23,
1845.

An act to amend the laws for the regulation of pilots and the pilotage of vessels at the port of Saint John's.

8 Vic., Cap. 14,
April 23,
1845.

An act to regulate the culling of codfish in this colony.

9 Vic., Cap. 3,
(1st Session,) April 28,
1846.

An act to enable barristers and advocates to practice as attorneys, solicitors and proctors in the several courts of this island.

9 Vic., Cap. 5,
(1st Session,) April 28,
1846.

An act to raise by loan a sum of money for the general purposes of the colony.

9 Vic., Cap. 7,
April 28,
1846.

An act to amend an act passed in the third year of his late Majesty's reign, entitled "An act for the more speedy abatement of nuisances."

9 Vic., Cap. 9,
April 28,
1846.

An act to repeal in part an act passed in the sixth year of the reign of her present Majesty, entitled "An act for the encouragement of education in this colony."

9 Vic., Cap. 10,
April 28,
1846.

An act to regulate the rebuilding of the town of Saint John's, and the drainage and sewerage of the same, and to repeal certain acts therein mentioned.

9 and 10 Vic.,
Cap. 3, Aug.
4, 1846.

An act for the laying out of streets and cross streets or fire-breaks in the town of Harbor Grace.

9 and 10 Vic.,
Cap. 4, Aug.
4, 1846.

An act to amend an act passed in the ninth and tenth years of the reign of her present Majesty, entitled "An act to regulate the rebuilding of the town of Saint John's and the drainage and sewerage of the same, and to repeal certain acts therein mentioned."

10 Vic., Cap.
1, Jan. 14,
1847.

An act to regulate the appointment of Sheriffs.

10 Vic., Cap.
3, Jan. 14,
1847.

- 12 Vic., Cap. 2, April 23, 1849. An act to repeal certain duties of customs.
- 12 Vic., Cap. 4, April 23, 1849. An act to provide for the regulation, management and collection of all duties granted to her Majesty, her heirs or successors, on goods, wares and merchandize imported into this island and its dependencies.
- 12 Vic., Cap. 5, April 23, 1849. An act to regulate the importation of books into this colony and to protect the British author.
- 12 Vic., Cap. 6, April 23, 1849. An act to continue and amend an act passed in the third year of the reign of her present Majesty, entitled "An act to amend several acts now in force respecting light houses, and to make further provision for the said light houses; and to consolidate the laws respecting the same."
- 12 Vic., Cap. 7, April 23, 1849. An act to repeal in part an act passed in the eighth year of the reign of her present Majesty, entitled "An act to amend several acts passed in the fourth year of the reign of her present Majesty entitled 'An act to regulate the packing and inspection of pickled fish for exportation from this colony.'"
- 12 Vic., Cap. 8, April 23, 1849. An act for the further amendment of the law and the better advancement of justice.
- 12 Vic., Cap. 9, April 23, 1849. An act for facilitating proceedings in cases of distress and replevin.
- 12 Vic., Cap. 10, April 23, 1849. An act for the limitation of personal actions at law, and for rendering a written memorandum necessary to the validity of certain promises and engagements.
- 12 Vic., Cap. 11, April 23, 1849. An act to amend the law of attachment in this colony, and to regulate the fees in certain cases payable thereon.
- 12 Vic., Cap. 12, April 23, 1849. An act to dispense with the present mode of registering crown grants, and to render valid certain grants heretofore issued.
- 12 Vic., Cap. 13, April 23, 1849. An act to prohibit interments within the town of St. John's.
- 12 Vic., Cap. 15, April 23, 1849. An act to amend an act passed in the ninth and tenth years of the reign of her present Majesty, entitled "An act to regulate the rebuilding of the town of Saint John's and the drainage and sewerage of the same, and to repeal certain acts therein mentioned;" and also an act passed in the tenth year of the reign of her present Majesty, entitled "An act to amend an act passed in the ninth and tenth

years of the reign of her present Majesty, entitled 'An act to regulate the rebuilding of the town of St. John's, and the drainage and sewerage of the same, and to repeal certain acts therein mentioned.' "

An act to extend the practice of vaccination to the out-ports of this colony. 12 Vic., Cap. 16, April 23, 1849.

An act to amend an act entitled "An act to provide for the regulation, management and collection of all duties granted to her Majesty, her heirs and successors, on all goods, wares and merchandize imported into this island and its dependencies." 13 Vic., Cap. 2, April 30, 1850.

An act to amend an act passed in the seventh year of the reign of her present Majesty, entitled "An act to provide for the establishment of an academy in Saint John's." 13 Vic., Cap. 5, April 30, 1850.

An act for the limitation of actions and suits relating to real property, and for simplifying the remedies for trying the rights thereto. 13 Vic., Cap. 6, April 30, 1850.

An act to fix and establish the terms of the Supreme Court, central Circuit and Sessions Courts, and to extend the jurisdiction and amend the practice of the said Courts. 13 Vic., Cap. 7, April 30, 1850.

An act in further amendment of the Saint John's rebuilding acts. 13 Vic., Cap. 10, April 30, 1850.

An act to amend an act passed in the third year of his late Majesty's reign, entitled "An act to provide for the performance of quarantine, and more effectually to provide against the introduction of infectious or contagious diseases and the spreading thereof in this island." 13 Vic., Cap. 12, April 30, 1850.

An act to provide for the vacation of seats of members of the House of Assembly in certain cases, and for the election of members in their stead. 13 Vic., Cap. 13, April 30, 1850.

An act to amend an act passed in the fourth year of the reign of his late Majesty, entitled "An act for the registering the claims of persons entitled to vote at elections." 13 Vic., Cap. 14, April 30, 1850.

An act to continue and amend an act passed in the sixth year of the reign of her present Majesty, entitled "An act for the encouragement of education within this colony." 13 Vic., Cap. 15, April 30, 1850.

An act to repeal an act entitled "An act to regulate the making and repairing of roads, streets and bridges within this colony." 13 Vic., Cap. 17, April 30, 1850.

- 14 Vic., Cap. 7, May 31, 1851. An act for the appointment of electric telegraph commissioners, and for incorporating electric telegraph companies.
- 14 Vic., Cap. 8, May 31, 1851. An act for the establishment and regulation of a penitentiary in St. John's.
- 14 Vic., Cap. 10, May 31, 1851. An act to amend the practice and to fix and establish terms or sittings of the northern and southern Circuit Courts and to provide for the appointment of clerks and registrars and other officers in the several electoral districts.
- 14 Vic., Cap. 11, May 31, 1851. An act to improve the copper currency of this island.
- 15 Vic., Cap. 2, June 14, 1852. An act for the encouragement of education.
- 15 Vic., Cap. 4, June 14, 1852. An act to consolidate and amend the Saint John's rebuilding acts.
- 15 Vic., Cap. 5, June 14, 1852. An act to repeal the acts respecting the establishment of a lunatic asylum at Saint John's, and to make other provisions in lieu thereof.
- 15 Vic., Cap. 7, June 14, 1852. An act to make provision for the protection of electric telegraphs.
- 15 Vic., Cap. 13, June 14, 1852. An act to amend the act for the establishment and regulation of inland posts.
- 15 Vic., Cap. 14, June 14, 1852. An act to amend the Carbonear street act.
- 15 Vic., Cap. 15, June 14, 1852. An act to remove doubts with reference to the application of certain portions of the criminal law of England to this colony.
- 15 Vic., Cap. 16, June 14, 1852. An act for shortening the language used in the acts of the General Assembly, and to aid in the construction of the same.
- 16 Vic., Cap. 4, May 28, 1853. An act for regulating the appropriation of packet postage in this colony.
- 16 Vic., Cap. 6, May 28, 1853. An act to amend an act for consolidating and amending the Saint John's rebuilding acts.
- 16 Vic., Cap. 7, June 15, 1853. An act to amend the practice and to establish and fix the terms or sittings of the northern and southern Circuit Courts and to provide for the appointment of registrars and other officers in the northern and southern districts of this island.
- 16 Vic., Cap. 8, June 15, 1853. An act to remove doubts respecting the jurisdiction of the Circuit Courts in Newfoundland in criminal cases.
- 16 Vic., Cap. 12, June 15, 1853. An act for the prevention of trespasses on private property in this colony.

An act to provide for the retiring allowances of certain public officers of the government of this colony. 18 Vic., Cap. 2, Nov. 30, 1854.

An act to increase the present number of representatives in the General Assembly of this island and to regulate the representation thereof. 18 Vic., Cap. 3, Nov. 30, 1854.

An act for the establishment of a board of revenue, and for the regulation, management and collection of all duties granted to her Majesty, her heirs and successors, on goods wares and merchandize imported into this colony and its dependencies, and to repeal certain acts relating thereto. 18 and 19 Vic., Cap. 4, Aug. 4, 1855.

An act to repeal and amend certain parts of an act of the Legislature of this colony passed in the fifteenth year of the reign of her Majesty, entitled "An act to amend and consolidate the acts now in force respecting light houses in this colony." 18 and 19 Vic., Cap. 5, Aug. 4, 1855.

An act to unite the offices of Colonial Treasurer and Collector of her Majesty's customs and revenue at the port of Saint John's in one office. 18 and 19 Vic., Cap. 6, Aug. 4, 1855.

An act for the establishment of a Board of Works. 18 and 19 Vic., Cap. 7, Aug. 4, 1855.

An act to provide for the salary of the Governor of this island. 18 and 19 Vic., Cap. 8, Aug. 4, 1855.

An act to reduce and make provision for the payment of the salaries of the principal officers of her Majesty's government in this colony, and to repeal certain legislative enactments in reference thereto. 18 & 19 Vic., Cap. 9, Aug. 4, 1855.

An act to repeal and amend parts of an act of this colony entitled "An act for the establishment of a Savings Bank in Newfoundland." 18 and 19 Vic., Cap. 11, Aug. 4, 1855.

An act to amend an act passed in the nineteenth year of the reign of her present Majesty, entitled "An act for the establishment of a board of revenue, and for the regulation, management and collection of all duties granted to her Majesty, her heirs and successors, on goods, wares and merchandize imported into this island and its dependencies, and to repeal certain acts relating thereto." 19 Vic., Cap. 2, May 12, 1856.

An act to amend an act entitled "An act to amend the laws for the regulation of pilots and the pilotage of vessels at the port of Saint John's." 19 Vic., Cap. 4, May 12, 1856.

- 19 Vic., Cap. 5,
May 12,
1856. An act to authorize the Governor in Council to erect light houses on the coast of this colony and for other purposes.
- 19 Vic., Cap.
6, May 12,
1856. An act to authorize the consolidation of sixty-eight thousand six hundred and seven pounds, five shillings and four pence of the public debt of this colony.
- 19 Vic., Cap.
9, May 12,
1856. An act to regulate the inland posts of this colony.
- 19 Vic., Cap.
11, May 12,
1856. An act for establishing the legal value of certain British and other coins in this colony.
- 19 Vic., Cap.
13, May 12,
1856. An act to determine the qualification of jurors to serve in the several courts of this island, and to regulate the empanelling of jurors therein.
- 19 Vic., Cap.
15, May 12,
1856. An act to amend the law of evidence.
- 19 Vic., Cap.
16, May 12,
1856. An act to provide for limited partnerships.
- 19 Vic., Cap.
17, May 12,
1856. An act to provide for the compromises or compositions of partners and joint debtors.
- 19 Vic., Cap.
18, May 12,
1856. An act to authorize the formation of corporations for manufacturing, mining, mercantile, mechanical, chemical, or other purposes.
- 19 Vic., Cap.
19, May 12,
1856. An act to repeal the patent acts of this colony, and to make other provisions in lieu thereof.
- 19 Vic., Cap.
20, May 12,
1856. An act for the naturalization of aliens.
- 19 Vic., Cap.
23, May 12,
1856. An act to provide for the retirement of the present Sheriff of the central district of Newfoundland.
- 20 Vic., Cap.
3, March 3,
1857. An act to provide for the support and maintenance of Cape Ray light house.
- 20 Vic., Cap.
7, March 17,
1857. An act for ascertaining the population of this colony and other statistical information.
- 20 Vic., Cap.
8, March 17,
1857. An act to repeal the act for the naturalization of aliens and to make other provisions in lieu thereof.
- 21 Vic., Cap.
1, April 10,
1858. An act to amend an act for establishing the legal value of certain British and other coins in this colony.
- 21 Vic., Cap. 3,
May 1, 1858. An act to authorize the widening of Water street in the town of Harbor Grace, the opening of a new fire-break therein, and for other purposes.
- 21 Vic., Cap.
5, May 10,
1858. An act to repeal and amend certain parts of an act entitled "An act for the establishment of a board of revenue, and

for the regulation, management, and collection of all duties granted to her Majesty, her heirs and successors, on goods, wares and merchandize imported into this island and its dependencies, and to repeal certain acts relating thereto."

An act for the encouragement of education.

21 Vic., Cap. 7,
May 10,
1858.

An act to amend an act passed in the thirteenth year of the reign of her Majesty, entitled "An act to amend an act passed in the seventh year of the reign of her present Majesty, entitled 'An act to provide for the establishment of an academy in Saint John's and for other purposes.'"

21 Vic., Cap.
8, May 10,
1858.

An act to provide for the performance of contracts between masters and servants in this colony.

21 Vic., Cap.
9, May 10,
1858.

An act to prevent the desertion of seamen.

21 Vic., Cap.
10, May 10,
1858.

An act to facilitate the recovery of small debts and claims and the hearing and determining of summary proceedings.

21 Vic., Cap.
11, May 10,
1858.

An act to establish the fees and costs chargeable in the several police offices and courts of session in this colony.

21 Vic., Cap.
12, May 10,
1858.

An act to afford relief to wives and children deserted by their husbands and parents.

21 Vic., Cap.
13, May 10,
1858.

An act for the protection of the herring fishery on the coast of this island.

21 Vic., Cap.
14, May 10,
1858.

An act to provide for the liquidation of a certain debt contracted by the colony for the making and widening of the streets and fire-breaks of Saint John's and for other permanent improvement thereof.

21 Vic., Cap.
15, May 10,
1858.

An act to revive and continue an act, entitled "An act to encourage the killing of wolves in this colony."

21 Vic., Cap.
18, May 10,
1858.

An act to provide for the appointment of surveyors of shipping in this island, and for other purposes connected therewith.

21 Vic., Cap.
20, May 10,
1858.

An act to provide for the execution of the office of Speaker of the House of Assembly in certain cases.

21 Vic., Cap.
21, May 10,
1858.

An act to remove doubts respecting the constitution of the Supreme Court.

22 Vic., Cap.
3, April 20,
1859.

An act to regulate the practice on the equity side of the Supreme and Circuit Courts.

22 Vic., Cap.
4, April 20,
1859.

An act to amend and simplify the practice of the northern and southern Circuit Courts of this island.

22 Vic., Cap.
5, April 20,
1859.

- 22 Vic., Cap. 6, April 20, 1859. An act to amend the practice and mode of procedure in granting probates and letters of administration and for other purposes.
- 22 Vic., Cap. 12, April 20, 1859. An act to amend an act passed in the twenty-third year of the reign of her Majesty, entitled "An act to provide for the performance of contracts between masters and servants in this colony."
- 22 Vic., Cap. 15, April 20, 1859. An act for the protection of the breeding of wild fowl and preservation of game.
- 23 Vic., Cap. 3, May 14, 1860. An act to amend an act passed in the seventh year of her Majesty's reign, entitled "An act to make provision for the disposal and sale of ungranted and unoccupied crown lands within the island of Newfoundland and its dependencies and for other purposes, and to make provision for granting mining licenses, leases, and grants of mineral lands, and for other purposes."
- 23 Vic., Cap. 4, May 14, 1860. An act to prevent the firing of the woods and forests of this colony and for other purposes.
- 23 Vic., Cap. 5, May 14, 1860. An act to provide for the protection of property wrecked on the coast of Newfoundland.
- 23 Vic., Cap. 7, May 14, 1860. An act to provide against the destruction of sheep and cattle, and injuries to the person by dogs.
- 23 Vic., Cap. 8, May 14, 1860. An act for the protection of the salmon fishery of this colony and for other purposes.
- 23 Vic., Cap. 9, May 14, 1860. An act to provide for the establishment of steam communication between Saint John's and the outports of Newfoundland.
- 23 Vic., Cap. 11, May 14, 1860. An act to regulate the trial of controverted elections, or return of members to serve in the House of Assembly.
- 24 Vic., Cap. 1, March 7, 1861. An act to repeal the Carbonear street act, and to make other provision in lieu thereof.
- 24 and 25 Vic., Cap. 3, June 25, 1861. An act to make further provision for the prevention of nuisances.
- 25 Vic., Cap. 2, March 27, 1862. An act for the protection of the herring and salmon fisheries on the coast of the island and for other purposes.
- 25 Vic., Cap. 4, March 27, 1862. An act to amend the law now in force for the more speedy abatement of nuisances, and to make further provision for the prosecution of the same in the towns of Saint John's, Harbor Grace, Carbonear and other places.

An act to provide for the better management of the Savings bank. 25 Vic., Cap. 5, March 27, 1862.

An act to amend an act passed in the nineteenth year of the reign of her present Majesty, entitled "An act to determine the qualification of jurors to serve in the several courts of this island, and to regulate the empanelling of jurors therein." 25 Vic., Cap. 6, March 27, 1862.

An act to amend and consolidate the law of insolvency, and for other purposes. 25 Vic., Cap. 7, March 27, 1862.

An act to amend and consolidate the law now in force providing for the registration of deeds in this colony. 25 Vic., Cap. 8, March 27, 1862.

An act for the better securing the independence of the House of Assembly of this colony by disabling certain persons from being elected thereto or of sitting or acting therein as members. 25 Vic., Cap. 9, March 27, 1862.

An act to declare the intention or meaning of the words "British sterling" and "sterling," and "pounds," "shillings" and "pence," introduced into any acts passed since a Legislature was granted to this colony in the year one thousand eight hundred and thirty-two. 25 Vic., Cap. 10, March 27, 1862.

An act to provide for the collection of the revenue and for the better administration of justice at the Labrador. 26 Vic., Cap. 2, March 25, 1863.

An act to extend the jurisdiction of the Circuit Courts of Newfoundland to the trial of offences committed and of causes of action arising on the coast of Labrador. 26 Vic., Cap. 3, March 25, 1863.

An act to amend an act passed in the nineteenth year of the reign of her present Majesty, entitled "An act for the establishment of a Board of Works." 26 Vic., Cap. 7, March 25, 1863.

An act for the establishment of a fire brigade. 26 Vic., Cap. 9, March 25, 1863.

An act to amend an act passed in the twenty-fourth year of the reign of her present Majesty, entitled "An act to repeal the Carbonear street act and to make other provision in lieu thereof." 26 Vic., Cap. 10, March 25, 1863.

An act to amend the law relating to the appointment of Sheriffs. 26 Vic., Cap. 11, March 25, 1863.

An act to make further provision for the punishment of persons convicted of certain offences under circumstances of aggravation. 26 Vic., Cap. 12, March 25, 1863.

- 26 Vic., Cap. 13, March 25, 1863. An act to amend an act passed in the twenty-second year of her present Majesty, entitled "An act for the protection of the breeding of wild fowl and preservation of game."
- 26 Vic., Cap. 14, March 25, 1863. An act to suspend the operation of an act passed in the third year of the reign of her present Majesty, entitled "An act to encourage the killing of wolves in this colony."
- 26 Vic., Cap. 15, March 25, 1863. An act for vesting all estates and property occupied by or for the naval service of the United Kingdom of Great Britain and Ireland in the Lord High Admiral or the commissioners for executing the office of Lord High Admiral of the said United Kingdom for the time being.
- 26 Vic., Cap. 18, March 25, 1863. An act for the regulation of the currency.
- 27 Vic., Cap. 2, April 13, 1864. An act to amend and consolidate the law of the customs.
- 27 Vic., Cap. 6, April 13, 1864. An act for the establishment of a public park in Saint John's.
- 27 Vic., Cap. 7, April 13, 1864. An act to amend an act passed in the twenty-first year of the reign of her present Majesty, entitled "An act to provide for the appointment of surveyors of shipping in this island and for other purposes connected therewith."
- 27 Vic., Cap. 8, April 13, 1864. An act to provide for the more easy recovery of certain claims against the Government of this colony.
- 27 Vic., Cap. 9, April 13, 1864. An act to improve and simplify the practice on the common law side of the Supreme and central Circuit Courts, and to consolidate the laws relating to the same.
- 27 Vic., Cap. 10, April 13, 1864. An act to shorten and simplify the forms of pleading in the Supreme and central Circuit Courts, and to render them more adapted than at present to the discovery and determination of the real point in dispute between the parties to a suit.
- 27 Vic., Cap. 11, April 13, 1864. An act to amend and consolidate the statute law of evidence.
- 27 Vic., Cap. 12, April 13, 1864. An act to amend and consolidate the law relating to costs on the common law side of the Supreme and central Circuit Courts.
- 27 Vic., Cap. 13, April 13, 1864. An act for the amendment of the law with respect to wills in this island.
- 27 Vic., Cap. 14, April 13, 1864. An act for establishing the standard weight of grain and pulse, and to regulate the sale of bread, coals and other articles.

An act for the prevention and suppression of lotteries in this colony. 27 Vic., Cap. 15, April 13, 1864.

An act to amend an act passed in the eighth year of the reign of her present Majesty, entitled "An act to amend the laws for the regulation of pilots and the pilotage of vessels at the port of Saint John's;" also to amend an act passed in the nineteenth year of the reign of her present Majesty, entitled "An act to amend the laws for the regulation of pilots and the pilotage of vessels at the port of Saint John's." 27 Vic., Cap. 16, April 13, 1864.

An act to regulate the inland posts of this colony. 28 Vic., Cap. 2, April 7, 1865.

An act to regulate the office and duties of Coroners. 28 Vic., Cap. 3, April 7, 1865.

An act to continue an act passed in the twenty-fourth and twenty-fifth years of the reign of her present Majesty, entitled "An act to provide for the organization of a volunteer force for the protection of Newfoundland." 28 Vic., Cap. 4, April 7, 1865.

An act to provide for the registration of births, marriages and deaths in this colony and its dependencies. 28 Vic., Cap. 5, April 7, 1865.

An act to make provision for wives and children deserted by their husbands and parents, and for aged persons deserted by their children. 28 Vic., Cap. 6, April 7, 1865.

An act to continue an act passed in the twenty-seventh year of the reign of her present Majesty, entitled "An act for establishing the standard weight of grain and pulse, and to regulate the sale of bread, coals and other articles." 28 Vic., Cap. 8, April 7, 1865.

An act to continue the punishment of banishment in certain cases. 28 Vic., Cap. 9, April 7, 1865.

An act to make provision for the recovery of penalties becoming due upon the forfeiture of certain recognizances. 28 Vic., Cap. 10, April 7, 1865.

An act to amend an act passed in the twenty-seventh year of the reign of her present Majesty, entitled "An act to improve and simplify the practice on the common law side of the Supreme and central Circuit Courts, and to consolidate the laws relating to the same." 28 Vic., Cap. 11, April 7, 1865.

An act to enable Courts of law to give relief against adverse claims made upon persons having no interest in the subject of such claims. 28 Vic., Cap. 12, April 7, 1865.

An act to provide for the erection of bridges across Colinet river and Rocky river, on the main line of road from Saint John's to Placentia. 28 Vic., Cap. 13, April 7, 1865.

- 28 Vic., Cap. 14, April 7, 1866. An act for the erection of a light house in the district of Burgeo and LaPoile on the coast of this island.
- 29 Vic., Cap. 2, May 1, 1866. An act to amend an act passed in the twenty-seventh year of the reign of her present Majesty, entitled "An act to amend and consolidate the laws of the customs."
- 29 Vic., Cap. 4, May 1, 1866. An act to provide for quarantine, and the establishment of boards of health.
- 29 Vic., Cap. 5, May 1, 1866. An act for the reduction of pauperism, by encouraging agriculture and more effectually carrying into operation the provisions of the act 23 Vic. cap. 3.
- 29 Vic., Cap. 7, May 1, 1866. An act to revive an act passed in the twenty-third year of the reign of her present Majesty, entitled "An act for the prevention of nuisances in the towns of Saint John's, Harbor Grace, Carbonear and Brigus, and to amend the laws for the prevention of nuisances."
- 29 Vic., Cap. 8, May 1, 1866. An act to continue and amend an act passed in the twenty-eighth year of the reign of her present Majesty, entitled "An act to make further provision against the destruction of sheep and cattle and injuries to the person by dogs."
- 29 Vic., Cap. 9, May 1, 1866. An act to continue and amend an act passed in the twenty-seventh year of the reign of her present Majesty, entitled "An act for establishing the standard weight of grain and pulse, and to regulate the sale of bread, coals, and other articles."
- 29 Vic., Cap. 11, May 1, 1866. An act to amend an act passed in the twenty-fifth year of the reign of her present Majesty, entitled "An act for the protection of the herring and salmon fisheries on the coast of this island, and for other purposes."
- 29 Vic., Cap. 12, May 1, 1866. An act to amend the acts for the establishment of a Board of Works.
- 29 Vic., Cap. 13, May 1, 1866. An act to make provision for the constitution of a marine Court of enquiry in this colony.
- 29 Vic., Cap. 14, May 1, 1866. An act to empower the superior Courts of this colony to direct certain offenders to remove therefrom, and for other purposes.
- 29 Vic., Cap. 15, May 1, 1866. An act to prevent the introduction or spreading of cattle disease in this colony.
- 29 Vic., Cap. 16, May 1, 1866. An act to amend the acts for the encouragement of education in this colony.

An act to repeal the Carbonear grammar school act, and for other purposes. 29 Vic., Cap. 17, May 1, 1866.

An act to make provision for the management of public wharves. 29 Vic., Cap. 18, May 1, 1866.

An act to amend an act passed in the twenty-eighth year of the reign of her present Majesty, entitled "An act to provide for the erection of bridges across Colinet river on the main line of road from Saint John's to Placentia." 29 Vic., Cap. 19, May 1, 1866.

An act to amend an act passed in the twenty-eighth year of the reign of her present Majesty, entitled "An act to regulate the making and repairing of roads, streets, and bridges within this colony." 30 Vic., Cap. 3, April 26, 1867.

An act to amend an act passed in the twenty-eighth year of the reign of her present Majesty, entitled "An act to regulate the inland posts of this colony." 30 Vic., Cap. 4, April 26, 1867.

An act to facilitate the recovery of tenements after due determination of the tenancy. 30 Vic., Cap. 5, April 26, 1867.

An act further to amend an act passed in the nineteenth year of the reign of Her present Majesty, entitled "An act to determine the qualification of jurors to serve in the several Courts of this island, and to regulate the empanelling of jurors therein." 30 Vic., Cap. 6, April 26, 1867.

An act to amend an act passed in the twenty-ninth year of the reign of her present Majesty, entitled "An act to make provision for the constitution of a marine Court of enquiry." 30 Vic., Cap. 8, April 26, 1867.

An act to amend the constitution of the Supreme Court of this colony and to abolish the Circuit Courts. 30 Vic., Cap. 9, April 26, 1867.

An act for the protection of married women in certain cases. 30 Vic., Cap. 10, April 26, 1867.

An act to amend the practice of the superior Courts as regards the estates of infants and persons of unsound minds. 30 Vic., Cap. 11, April 26, 1867.

An act to amend an act passed in the twenty-ninth year of the reign of her present Majesty, entitled "An act to empower the superior Courts of this colony to direct certain offenders to remove therefrom and for other purposes." 30 Vic., Cap. 12, April 26, 1867.

An act to amend an act passed in the twenty-seventh year of the reign of her present Majesty, entitled "An act for establishing the standard weight of grain and pulse, and to regulate the sale of bread, coals and other articles." 30 Vic., Cap. 13, April 26, 1867.

of Saint John's, and the raising by loan of a sum of money for that purpose.

- 34 Vic., Cap.
12, April 24,
1871. An act to make provision for preventing the spread of small-pox.
- 34 Vic., Cap.
13, April 24,
1871. An act to amend an act passed in the twenty-fifth year of the reign of her present Majesty, entitled "An act to provide for the better management of the Savings bank."
- 34 Vic. Cap.
14, April 24,
1871. An act to revive and continue certain provisions of the act twenty-ninth Victoria, chapter five, entitled "An act for the reduction of pauperism by encouraging agriculture and more effectually carrying into operation the provisions of the act twenty-third Victoria, chapter three."
- 35 Vic., Cap.
3, April 25,
1872. An act for the abolition of royalties in this colony and its dependencies, and for other purposes.
- 35 Vic., Cap.
4, April 25,
1872. An act for the abolition of certain crown rents in this colony.
- 35 Vic., Cap.
5, April 25,
1872. An act to amend the jury acts.
- 35 Vic., Cap.
6, April 25,
1872. An act to organize and maintain an efficient constabulary force, and for the appointment of special constables in this colony.
- 35 Vic., Cap.
7, April 25,
1872. An act to amend an act passed in the thirty-first year of the reign of her present Majesty, entitled "An act to amend and consolidate the laws relating to nuisances and dogs, and to establish certain municipal regulations."
- 35 Vic., Cap.
8, April 25,
1872. An act to continue an act passed in the thirty-third year of the reign of her present Majesty, entitled "An act to extend the jurisdiction of the Court of Quarter Sessions and of the Magistrates of the central district, and for other purposes."
- 35 Vic., Cap.
9, April 25,
1872. An act to amend an act passed in the fifteenth year of the reign of her present Majesty, entitled "An act to consolidate and amend the St. John's rebuilding acts."
- 35 Vic., Cap.
10, April 25,
1872. An act to amend an act passed in the twenty-third year of the reign of her present Majesty, entitled "An act to regulate the trial of controverted elections or returns of members to serve in the House of Assembly."
- 35 Vic. Cap.
11, April 25,
1872. An act to assimilate the tonnage duties on foreign vessels to those of British.
- 35 Vic., Cap.
12, April 25,
1872. An act to authorize the consolidation of part of the public debt of this colony.

An act for the erection of a lighthouse on or near Cape St. Francis, on the northern coast of Newfoundland. ^{35 Vic., Cap. 13, April 25, 1872.}

An act to provide for the erection of an ocean sea light in the district of Twillingate and Fogo, on the northern coast of Newfoundland. ^{35 Vic., Cap. 14, April 25, 1872.}

An act to provide for the retirement of John Valentine Nugent, the present Sheriff of the central district of Newfoundland. ^{35 Vic., Cap. 15, April 25, 1872.}

So much of the third section of the imperial statute 5 George 4, entitled "An act for the better administration of justice in Newfoundland," as requires that issues of fact be tried in Saint John's. ^{Part of 3rd sec. 5 Geo. 4.}

Also, so much of the second section of the said statute as requires that the Chief Justice and assistant Judges respectively shall be barristers in England or Ireland, or of her Majesty's colonial plantations, of three years' standing. ^{Part of 2d sec. 5 Geo. 4.}

Also, so much of the said statute, and of the royal charter issued under the authority thereof, as provides for the salaries of the Chief Justice and assistant Judges of the Supreme Court.


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**APPENDIX.**  
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An Act for the better Administration of Justice in
Newfoundland, and for other purposes.*

ANNO QUINTO GEORGII IV., REGIS.

CHAPTER 67.

[17th June, 1824.]

Whereas it is expedient to make further provision for the administration of justice in the colony of Newfoundland ; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons, in this present parliament assembled, and by the authority of the same, that it shall and may be lawful for his Majesty, by his charter or letters patent under the Great Seal, to institute a superior Court of judicature in Newfoundland, which shall be called "The Supreme Court of Newfoundland;" and the said Court shall be a Court of Record, and shall have all civil and criminal jurisdiction whatever in Newfoundland, and in all lands, islands and territories dependent upon the Government thereof, as fully and amply, to all intents and purposes, as his Majesty's Courts of King's Bench, Common Pleas, Exchequer and High Court of Chancery, in that part of Great Britain called England have, or any of them hath; and the said Supreme Court shall also be a Court of oyer and terminer and general gaol delivery in and for Newfoundland, and all places within the government thereof; and shall also have jurisdiction in all cases of crimes and misdemeanors committed on the banks of Newfoundland or any of the seas or islands to which ships or vessels repair from Newfoundland for carrying on the fishery.

2. And be it further enacted, that the said Supreme Court shall be holden by a Chief Judge and two assistant Judges,

His Majesty may institute a superior Court of judicature in Newfoundland, which Court shall be a Court of oyer and terminer and general delivery.

Supreme Court to be held by a Chief Judge and two assistant Judges ap-

* N.B.—This Act (generally called "The Judicature Act") was made perpetual by act of the Imperial Parliament, 2 and 3 Wm. 4, Cap 78.

pointed by his Majesty, who may remove them and appoint others.

being respectively barristers in England or Ireland of at least three years* standing, or in some of his Majesty's colonies or plantations, who shall be appointed to such their offices by his Majesty, his heirs and successors: Provided always that it shall be lawful for his Majesty, his heirs and successors, from time to time as occasion may require, to remove and displace any such Chief Judge or assistant Judge as aforesaid, and in his stead to appoint any other fit and proper person, being a barrister as aforesaid, to be the Chief Judge or assistant Judge of the said Court as the case may be: And provided also that in case any such Chief Judge or assistant Judge shall be absent from Newfoundland, or die, or resign such his office, or by reason of sickness or otherwise shall become incapable of performing the duties thereof, then and in every such case it shall be lawful for the Governor or acting Governor of Newfoundland for the time being to nominate and appoint some fit and proper person to act as Chief Judge or assistant Judge, as the case may be, in the place or stead of the Judge so being absent, dying, resigning his office or becoming incapable of performing the duties thereof, until such Judge shall resume the duties of his office, or until a successor shall be appointed by his Majesty, his heirs and successors; and the said Chief Judge and assistant Judges shall respectively have and exercise such and the like powers and authorities in Newfoundland, and all places dependent upon the Government thereof, as any Judge of any of his Majesty's said Courts of King's Bench, Common Pleas and Exchequer, or as the Lord High Chancellor of Great Britain, hath or exercises in England.

Governor of Newfoundland may appoint Judges in certain cases.

Issues of fact to be tried at St. John's by a jury.

3. And be it further enacted, that all issues of fact which may be joined between the parties in any action at law originally brought before the said Supreme Court of Record, or which may be joined upon any criminal information or prosecution depending in that court, shall be tried at the town of St. John's,† in the island of Newfoundland, by a jury of twelve men; and for the purpose of hearing and trying all suits, actions, and all informations, prosecutions

Appointment of sessions.

* See the chapter of Consolidated Statutes, entitled "Of Supreme Court and the Judges, &c., thereof."

† See general Repealing Act at end of Consolidated Statutes.

and other proceedings of what nature and kind soever, which may be brought or commenced in the said Supreme Court, *one or more term or terms, or session or sessions of the said Court shall be held at the town of St. John's aforesaid,** in each year, by the said Chief Judge and assistant Judges, at such time as the Governor or acting Governor of the said colony shall from time to time, by any proclamation to be by him for that purpose issued, direct and appoint.

4.† And be it further enacted, that as often as any information, action or suit shall be brought or prosecuted before the said Supreme Court, for the breach or violation of any law relating to the trade or revenue of the British colonies or plantations in America, such information, action or suit shall be heard and determined by the said Court according to the course of proceeding in similar cases in the Courts of Vice Admiralty in the said colonies or plantations; and that it shall and may be lawful for the party or parties feeling aggrieved by the judgment or decree of the said Supreme Court, in any such case, to appeal from such judgment or decree to the high Court of Admiralty, or to his Majesty in Council, under such and the like rules and regulations as are observed in appeals from the said Courts of Vice Admiralty.

Actions in breach of any law relating to trade of the British colonies in America to be tried according to proceedings in Courts of Vice Admiralty.

Appeal.

5. And be it further enacted, that the said Supreme Court shall have power to grant administration of the effects of intestates and the probate of wills; and that the effects of deceased persons shall not be administered within the island of Newfoundland, or any island, place or territory dependent upon the Government thereof, unless administration or probate shall have been duly granted by the said Supreme Court;‡ and in all cases where the executor or executors of any will in Newfoundland, or the dependencies thereof, upon being duly cited, shall refuse or neglect to take out probate as aforesaid, or where the next of kin shall be absent from Newfoundland, and the effects of the deceased shall appear to the said Supreme Court to be exposed and liable to waste, it shall be lawful for the said Supreme Court to authorise

Supreme Court may grant administration of the effects of intestates, and probates of wills, &c.

And appoint receivers.

* See chapter of Consolidated Statutes, entitled "Of Supreme Court, its Sessions, &c."

† See *idem*.

‡ See chapter of Consolidated Statutes, entitled "Of Probate and Administration."

and empower the registrar or clerk of the said Court, or some other fit and proper person, to collect the said effects, and hold or deposit or invest the same in such manner and place, or upon such security, and subject to such orders and directions as shall be made by the said Supreme Court in respect of the custody, control, or disposal of such effects.

Supreme Court
may appoint
guardians for
infants and
lunatics.

6. And be it further enacted, that the said Supreme Court shall have power and authority to appoint guardians and keepers for infants and their estates, according to the order and course observed in such cases in England; and also to appoint guardians and keepers of the persons and estates of natural fools, and of such as are or shall be deprived of their reason or understanding, so as to be unable to govern themselves and their affairs, which the said Supreme Court shall have the power and authority to inquire of and determine, by inspection of the person, or by such other ways and means as to such Supreme Court shall seem best for ascertaining the truth.

Governor may
divide colony
into three dis-
tricts.

7. And be it further enacted, that it shall and may be lawful for the Governor or acting Governor for the time being of Newfoundland, by proclamation or proclamations to be by him for that purpose issued, to apportion and divide the said colony into three several districts and to fix and ascertain the boundaries and limits of every such district, and such boundaries or limits from time to time to alter as occasion may require: Provided always, that such appointment of the said colony into such districts as aforesaid be made in such manner as to such Governor or acting Governor may appear to be best adapted for enabling the inhabitants of the said colony to resort with ease and convenience to the Circuit Courts, to be therein established as after mentioned.

His Majesty
may institute
Circuit Courts.

8. And be it further enacted, that it shall and may be lawful for his Majesty, by any such charter or letters patent as aforesaid, to institute Circuit Courts* in each of the three districts in which the said colony may be so divided as aforesaid; and each of the said Circuit Courts shall be holden once at least in each year by the said Chief Judge or by one of the said assistant Judges of the said Supreme Court of Newfoundland, at such times, and at such one or more places

*Circuit Courts abolished by 30 Vic., Cap. 9.

within each of the said districts, as the Governor or acting Governor for the time being of Newfoundland shall from time to time direct and appoint.

9. And be it further enacted, that the said Circuit Courts shall be respectively Courts of Record, and shall, within the district in which they may be holden, have and exercise all such and the same jurisdiction, powers, and authority, as is hereby vested in the said Supreme Court of Newfoundland throughout the whole of the said colony; saving and excepting the trying and determining of treasons or misprisions of treason, and felonies not within the benefit of clergy, and the hearing or determining of any information, suit, or action for the breach or violation of any act of parliament relating to the trade and revenue of the British colonies in America, all which said crimes and offences, informations, suits, and actions, shall be tried, inquired of, heard and determined in the said Supreme Court of Newfoundland, and not elsewhere within the said colony.

Circuit Courts to be Courts of record, exercising the same jurisdiction as the Supreme Court, except in cases of treason and felonies not within benefit of clergy, &c.

10. And be it further enacted that all crimes and misdemeanors cognizable in the said Circuit Courts, and all issues of fact which may be joined between the parties in any civil action depending in the said Circuit Courts, shall be inquired of, heard and determined, by the said Circuit Judge, and a jury of twelve men, according to the rules and course of the law of England, as far as the situation and circumstances of the said colony will permit.

Crimes cognizable in Circuit Courts and civil actions to be tried by jury according to the law of England.

11. Provided nevertheless, and be it further enacted, that if upon the trial of any crimes or misdemeanors before any of the said Circuit Courts, twelve good and lawful men shall not appear to form a jury, then and in all such cases such trial shall be had by the Circuit Judge and three assessors, being Justices of the Peace in and for the said colony, or for some district thereof; and the said Justices shall be nominated from time to time to serve as such assessors as aforesaid by the Governor or acting Governor for the time being of the said colony, and shall severally be liable to be challenged or objected to upon the special ground of direct interest or affection, to be specified in open Court at the time of challenge; and in case of such challenge or objection being allowed by the Judge of the said Circuit Court,

But where a jury shall not be formed, trials for crimes shall be had by the Circuit Judge and three assessors, being Justices of the Peace and nominated by the Governor.

Such assessors liable to be challenged.

the Justice of the Peace so challenged or objected to shall be succeeded by another such Justice of the Peace, who shall in like manner be nominated by the Governor or acting Governor for the time being as aforesaid, and be liable in the same manner to challenge or objection, until three such Justices of the Peace shall appear duly qualified for the trial of any offender in the said Circuit Courts respectively; and the said Justices of the Peace shall thereupon severally take and repeat in open Court the same oath as is taken by petit jurors impanelled for the trial of any crime or misdemeanour in a Court of Record in England; and the Judges of the said Circuit Courts respectively shall, together with the said three assessors, give their verdict upon every such trial in open Court; but no person shall be found guilty by any such verdict unless the Judge of the said Court and two at least of his said assessors, shall concur in such verdict; and the proceedings in the said Circuit Courts respectively shall be under the control and direction of the respective Judges thereof, and all matters of law arising in the course of any trial shall be determined by such Judges respectively.

Verdict to be given in open Court.

Civil actions to be tried by the Judge of the Court alone where a jury shall not be formed.

12. Provided also, and be it further enacted, that if upon the trial of any issue or issues of fact joined between the parties in any suit or action depending in any of the said Circuit Courts, twelve good and lawful men shall not appear to form a jury, all such issues of fact shall be tried and decided by the Judge of such Court alone and without a jury; and that in all cases where the sum or matter at issue in any such suit or action shall exceed or be of the value of more than fifty pounds sterling British money, the Judges of the said Courts respectively shall cause the evidence on any such hearing or trial as aforesaid to be taken down in writing by the clerk or other proper officer in open Court in the presence of the witnesses respectively giving the same, and the evidence so taken shall be entered upon the proceedings of the said Courts respectively, and be of record; and in every case in which any appeal shall be made and allowed under the provisions of this act from any judgment of the said Circuit Courts not founded on the verdict of a jury, copies of all documents and papers which shall have been produced and given in evidence shall be

On appeal, documents to be produced.

certified by the said clerk or other proper officer as authentic; and also copies of any documents and papers which shall have been produced and tendered in evidence and rejected, shall, if required by the party producing the same, be in like manner authenticated, but marked by such officer as aforesaid as rejected, in order that all such copies may be annexed to the record as part thereof in case of appeal.

13. And be it further enacted, that it shall be lawful for the Judges of the said Circuit Courts respectively, on the application of either of the parties, plaintiff or defendant, at or before the trial of any issue of fact joined in any civil suit or action commenced in the said Circuit Courts respectively, in case such issue is not tried by a jury, to permit the evidence on such trial to be recorded and certified as aforesaid, although the sum or matter at issue may be less in value than fifty pounds sterling, provided it shall be made to appear to such Judge that the judgment, decree, order, or sentence which may be given, made, or pronounced in such suit or action, may be of such importance as to render it proper that an appeal should be permitted; and if, after giving or pronouncing such judgment, decree, or order, the said Judge shall be of opinion that such judgment, decree, or order is of such importance as to make it proper that an appeal should be permitted, it shall be lawful for the said Judge to allow either of the said parties, plaintiff or defendant, to appeal to the Supreme Court, in like manner, and under and subject to the like rules and regulations, as in and by this act are directed in other cases of appeal.

On application of either of the parties before trial, though the sum does not amount to £50, the Judge may permit the evidence to be recorded,

Appeal.

14. And be it further enacted, that it shall be lawful for the plaintiff or plaintiffs, defendant or defendants, against whom any judgment, decree, or order of the said Circuit Courts respectively shall be given, for or in respect of any sum or matter at issue above or exceeding the value of fifty pounds sterling, to appeal therefrom to the said Supreme Court; and the party or parties appealing from such judgment, decree, or order shall, within fourteen days from the passing thereof, give notice to the adverse party or parties of such appeal, and within fourteen days from and after such judgment, decree, or order, enter into sufficient security, to

Appeal to the Supreme Court may be had on giving notice.

Costs.

be approved by the Judges of the said Circuit Courts respectively, to satisfy or perform the said judgment, decree, or order, in case the same shall be affirmed, or the appeal dismissed, together with such further costs as shall be awarded thereon; and in all cases of appeal, where notice shall be given and security perfected as aforesaid, execution shall be stayed, and not otherwise; and the said Supreme Court shall and may inquire into, hear and decide all questions whether of law or of fact, arising upon any such appeal, but shall not admit or receive any evidence which was not tendered to the Circuit Court from which such appeal may be brought on the hearing or trial of any such suit or action therein: Provided always, that the said Supreme Court shall not reverse, alter, or inquire into any judgment of the said Circuit Courts, founded on the verdict of a jury, except only for error of law apparent upon the record.

Verdict of jury
not to be in-
quired into.

Actions may be
removed from
one Court to
another.

15. And be it further enacted, that as often as any action or suit shall be brought in the Supreme Court, or in either of the said Circuit Courts respectively, and it shall be made to appear to the Court before which such action or suit may be pending, that such action or suit may be more conveniently heard and determined either in the said Supreme Court, or in some other of the said Circuit Courts, it shall be lawful for such Court to permit and allow such action or suit to be removed to such other Court, and such allowance shall be certified by the Judge, together with the writ or process and proceedings in such action or suit, to the Court into which such action or suit shall be intended to be removed; and thereupon it shall be lawful for such last-mentioned Court, and such Court is hereby required to proceed in such action or suit, in like manner as if the same had been originally commenced and prosecuted in such last-mentioned Court.

On certificate
of Judge.

Defendants not
appearing on
summons, their
goods to be at-
tached or per-
sons arrested,
&c.

16.* And be it further enacted, that in all actions at law or suits in equity, which shall be brought in the said Courts respectively, where the debt or sum demanded shall not be sworn to as hereinafter mentioned, the defendant or defendants in such action or suit shall be made to appear to such

* See chapters of Consolidated Statutes, on Common Law and Equity Practice.

action or suit by summons, to be issued by the Chief Judge of the said Supreme Court, or by the Judges of the said Circuit Courts respectively, and served by the proper officer on the said defendant or defendants personally, or left at his, her or their usual place of abode ; and in all cases where such summons shall be disobeyed, or where the debt, damages or thing demanded shall exceed ten pounds sterling money, and shall be sworn to in an affidavit made by the plaintiff or plaintiffs, or his, her, or their lawful attorney, then the said defendant or defendants shall be made to appear by attachment of his, her, or their goods, debts or effects, or by arrest of the person of the said defendant or defendants ; and in case of his, her, or their goods, debts, or effects being attached as aforesaid, such goods, debts, or effects, or so much thereof as shall be judged by the said Court sufficient to satisfy the debt or damages, shall be held as security for such debt or damages, and shall abide the order, judgment, or decree of the Court issuing such attachment, unless the defendant or defendants, or some person on his, her, or their behalf, shall appear and give good and sufficient bail, to be approved by such Court, to satisfy such judgment, decree, or order ; and where the defendant or defendants has or have been arrested, he, she, or they shall not be discharged out of custody until he, she, or they shall in like manner have given good and sufficient bail, to be approved by such Court, to satisfy the judgment, decree, or order of the Court in the cause in which arrest was made ; and it shall also be lawful for the said Courts respectively, when any such action or suit as aforesaid shall be depending therein, to cause to appear from day to day all parties interested therein, and to examine upon oath any of such parties, in case such examination shall appear to the said Court necessary for the discovery of the truth, but not otherwise ; and thereupon and after due consideration of all circumstances of the case, to make such order, judgment, or decree therein, and award such damages and costs, as shall be just and equitable ; and such order, judgment, or decree shall be enforced by attachment and sale of the goods, debts, and effects, or by arrest of the person or persons against whom such order, judgment, or decree shall be made, and imprisonment of such person or

persons until such order, judgment, or decree shall be performed and satisfied.

Powers given for making rules and orders for the proceedings in the Supreme Court and Circuit Courts, &c.

17. And be it further enacted, that it shall be lawful for his Majesty, his heirs and successors, by such charter or letters patent as aforesaid, or by any order or orders to be hereafter issued by and with the advice of his or their Privy Council, to make and prescribe, or to authorize and empower the said Supreme Court of Newfoundland, under such limitations as his Majesty shall deem proper, to make and prescribe such rules and orders touching and concerning the forms and manner of proceeding in the said Supreme Court and Circuit Courts respectively, and the practice and pleadings upon all indictments, informations, actions, suits and other matters to be therein brought; or touching or concerning the appointing of commissioners to take bail, and examine witnesses; the taking examinations of witnesses *de bene esse*, and allowing the same as evidence; the granting of probates of wills and letters of administration; the proceedings of the Sheriff or his deputies, and other ministerial officers; the summoning of assessors for the trial of crimes and misdemeanors in the said Circuit Courts; the process of the said Court, and the mode of executing the same; the empannelling of juries; the admission of barristers, attorneys, and solicitors; the fees, poundage or perquisites to be lawfully demanded by any officer, attorney, or solicitor in the said Courts respectively; and all other matters and things whatsoever touching the practice of the said Courts, as to his Majesty, his heirs and successors, shall seem meet for the proper conduct of business in the said Courts, and such rules and orders from time to time to alter, amend or revoke, as to his Majesty, his heirs and successors, shall seem requisite.

Power to the Governor to institute a Court of civil jurisdiction on the coast of Labrador.

51 G. 3. c. 54.

18. And whereas it is expedient to make further provision for the administration of justice on the coast of Labrador; be it further enacted, that so much of an act passed in the fifty-first year of the reign of his said Majesty George the Third, entituled an act to take away the public use of all ship rooms in the town of St. John's, in the island of Newfoundland; and for establishing surrogate Courts on the coast of Labrador* and in certain islands adjacent thereto,

*See chapter of the Consolidated Statutes, entitled "Of the Labrador Court."

as relates to the institution of surrogate Courts, shall be, and the same is hereby repealed; and that it shall and may be lawful for the Governor or acting Governor of Newfoundland, for the time being, to institute a Court of civil jurisdiction at any such parts or places on the coast of Labrador or the islands adjacent thereto, which in and by the said act passed in the fifty-first year of the reign of his Majesty George the Third, are re-annexed to the government of Newfoundland, as occasion may require; and such Courts shall be held by one Judge and shall be a Court of Record, and shall have jurisdiction, power and authority to hear and determine all suits and complaints of a civil nature arising within any of the said parts and places on the coast of Labrador or the islands adjacent thereto; and the said Court shall be holden by a Judge who shall be appointed from time to time by the Governor or acting Governor of Newfoundland, and shall have a clerk and such other ministerial officers as the Governor or acting Governor shall appoint; and the proceedings of the said Court shall be summary, and such forms of process and such rules of practice and proceedings as shall be settled by the Chief Judge of the said Supreme Court, shall be followed by the said Court and no other.

Repealed by
colonial act 4
W. 4, c. 20.

19. And be it further enacted, that it shall and may be lawful for the plaintiff or plaintiffs, defendant or defendants, against whom any judgment, decree or order of the said Court shall be given, for or in respect of any sum or matter at issue above fifty pounds sterling, or where the matter in dispute shall relate to the title to any lands, tenements, right of fishery, annual rent or other matter where, in the judgment of the said Court, rights in future may be bound, to appeal therefrom to the said Supreme Court; and the party or parties appealing from such judgment, decree or order shall within seven days from the passing thereof, give notice to the adverse party or parties of such appeal, and within fourteen days from and after such judgment, decree or order, enter into sufficient security, to be approved by the Judge of the said Court or some person to be appointed by him for that purpose in his absence, to satisfy or perform the said judgment, decree or order, in case the same shall be

Appeal to Su-
preme Court in
certain cases.

affirmed or the appeal dismissed, together with such further costs as shall be awarded thereon; and in all cases of appeal where notice shall be given and security perfected as afore-

Repealed by colonial act, 4 W. 4, c. 20.

Appeal from Supreme Court to his Majesty in Council.

20. And be it further enacted, that it shall and may be lawful for his Majesty, by his said charter or letters patent, to allow any person or persons feeling aggrieved by any judgment, decree, order or sentence of the said Supreme Court, to appeal therefrom to his Majesty in Council in such manner, within such time, and under and subject to such rules and regulations and limitations as his Majesty by such charter or letters patent respectively shall appoint and direct.

Governor, on arrival of his Majesty's charter, to notify by proclamation when the Courts shall be opened, and thereupon so much of 49 G. 3, c. 27, as relates to the Courts thereby instituted, shall be repealed, and proceedings and records of those Courts delivered over to the Courts instituted under this act.

21. And be it further enacted, that the Governor or acting Governor of Newfoundland upon the arrival in the said colony of his Majesty's charter or letters patent for the establishment of the said Courts by virtue of this act, shall by proclamation notify to the inhabitants of the said colony the time when the said Courts respectively shall be intended to be opened; and as soon as the Judges of the said Supreme Court shall have assumed and entered upon the exercise of their jurisdiction therein, then and from thenceforth so much of the act passed in the forty-ninth year of the reign of his late Majesty George the third, entitled "An act for establishing of Courts of judicature in the island of Newfoundland, and in the islands adjacent; and for re-annexing part of the coast of Labrador, and the islands lying on the said coast, to the Government of Newfoundland," as relates to the Courts thereby instituted, and respectively called the Supreme Court of judicature of the island of Newfoundland, and surrogate Courts, shall cease to be in force and determine; and every suit, action, complaint, matter or thing which shall be depending in such last-mentioned Courts respectively, shall and may be proceeded upon in the Supreme Court instituted under and by virtue of this act, or either of the said Circuit Courts which shall have jurisdiction within the district or place in Newfoundland where such action or suit respectively was depending; and all proceedings which shall thereafter be had in such action or suit respectively, shall be conducted in like manner as if such action

or suit had been originally commenced in one or other of the said Courts instituted under this act; and all records, muni-ments, and proceedings whatsoever of and belonging to the said Courts instituted under the said recited act respectively, shall from and immediately after the opening of the said Courts respectively instituted under this act be delivered over and deposited for safe custody in such of the said Courts respectively instituted under this act as shall be found most convenient, and all parties concerned shall and may have recourse to the said records and proceedings of the said Courts respectively.

22. And be it further enacted, that Courts of General and Quarter Sessions shall be holden at Newfoundland and its dependencies at such times and places as the Governor or acting Governor of Newfoundland shall by his proclamation appoint; and the said Courts of Sessions* respectively shall have power in a summary way to take cognizance of all suits for the payment of debts not exceeding forty shillings, except the matter in dispute shall relate to the title to any lands or tenements, or to the taking or demanding of any fee of office or annual rent, and to award costs therein; and also to hear and determine all disputes, to any amount, which may arise in Newfoundland concerning the wages of seamen or fishermen, the supply of bait, the hiring of boats for the fishery, and all disputes arising in Newfoundland aforesaid concerning the curing or drying of fish, where the sum or matter in question does not exceed or is not of the value of more than five pounds sterling; and the judgment, determination, or award of the said Courts of Sessions or Justices respectively, in all such cases, shall be final.

Courts of general and quarter Sessions shall be held at such times and places as the Governor shall appoint.

Their powers.

23.† And whereas it is expedient to make provision for declaring insolvencies in Newfoundland; be it therefore enacted, that as often as any writ of attachment, or other process for the recovery of any debt or sum due, shall be issued by the said Supreme or Circuit Courts respectively against any person or persons residing or having a house of trade or carrying on business in Newfoundland, or any place within the Government thereof, and it shall be made to ap-

Proceedings in case of insolvency.

* See chapter of Consolidated Statutes, entitled "Of Courts of Session," &c.
† Sections 23, 24, 25 and 26 repealed by 25 Vic., Cap. 7. See chapter of Consolidated Statutes, entitled "Of Insolvency."

pear to the said Court out of which such writ or process shall have issued, at the return thereof, that the person or persons against whom such writ or process hath issued is or are unable to pay twenty shillings in the pound to all his, her, or their creditors, it shall be lawful for such Court to cause the person or persons against whom such process shall have been issued, together with all his, her, or their creditors, to be summoned by public notice to attend the said Court on a certain day, and in the meantime, if it shall appear necessary to the said Court, to appoint one or more of the said creditors as provisional trustee or trustees to discover, collect and receive the estates and effects of such person or persons so appearing to be insolvent, subject to the orders and directions of the said Court; and if, after due examination of the person or persons against whom process shall have issued as aforesaid, or his, her, or their lawful agent or agents, or if such person or persons shall abscond or fail to attend the said Court pursuant to summons as aforesaid, it shall be made to appear to the satisfaction of the said Court that such person or persons is or are insolvent, it shall be lawful for the said Court to declare such person or persons insolvent accordingly, and immediately to take order for discovering, collecting, and selling the estates, debts, and effects of such insolvent, and distributing the produce thereof amongst all his, her, or their creditors, and for that purpose to authorise any two or more creditors of the said insolvent or insolvents, who shall be chosen by the major part in value of such creditors or their agents duly authorized in such behalf, whose debts amount respectively to the sum of twenty pounds and upwards, to act as trustees to such insolvent estate; and such Court shall from time to time make such orders as it shall deem proper, for better discovering, collecting, realizing and distributing the estates, debts, and effects of the person or persons so declared insolvent, and as often as occasion shall require, for vesting the same, or any part thereof, in the public funds or securities in England, in the name or names of such person or persons as shall for that purpose be appointed by the said Court, until distribution can be made as hereafter mentioned.

Notice to parties to attend.

Provisional trustees.

Declaration of insolvency.

Collection and distribution.

Insolvents, on

24. And be it further enacted, that if such insolvent

person or persons shall make a full and true disclosure, dis-
covery and surrender of all his, her or their estates, debts
and effects, and shall conform to the orders and directions of
the said Judges of the said Courts respectively, the same
shall and may, with the consent in writing under the
hands of one half in number and value of such creditors of
such insolvent or insolvents, be certified by the respective
Judges under the seal of the said Courts respectively; and
such certificate may be pleaded, and shall be a bar to every
suit or action which may at any time thereafter be brought
in any Court in the said island or colony of Newfound-
land and its dependencies for any debt or contract for pay-
ment of money due or entered into by such person or
persons prior to the time of his, her, or their being declared
insolvent as aforesaid; and if any person or persons so
declared insolvent as aforesaid, shall fail to make a true
disclosure and discovery of all his, her or their estate or
estates and effects, or shall otherwise refuse to conform to
the orders or directions of the said Judges respectively, it
shall be lawful for the said Judges respectively to cause
such person or persons to be arrested and imprisoned until
he, she or they shall make such disclosure and discovery,
and in all respects conform to the orders of the said Judges
respectively.

25. And be it further enacted that in the distribution to
be made of the produce of the estates and effects of every
person or persons hereafter declared insolvent in Newfound-
land or its dependencies as aforesaid, every creditor for
supplies necessary and furnished *bona fide* for the fishery
during the current season, (that is to say) at any time after
the close of the last preceding season of the fishery, shall be
considered as a privileged creditor, and shall first be paid
twenty shillings in the pound, so far as the estates and
effects of such insolvent person or persons which may be
realized in Newfoundland or its dependencies will go, and
that all other creditors shall be paid equally and rateably:
Provided always, that nothing in this act contained shall
affect the prior claims of any seamen and other servants
actually employed in the catching and taking of fish and
oil, upon all fish and oil caught by the hirers or employers

making disclo-
sure of their
effects and con-
forming to the
direction of the
Judges, may
receive certifi-
cates, with con-
sent of one half
in number and
value of the
creditors.

Creditors for
supplies for the
fishery for the
current season
shall be privi-
leged, and be
first paid 20s.
in the pound.

Not to affect
the prior claims
of seamen or
domestic ser-
vants.

of such seamen, fishermen or servants, or the produce or value thereof; and also provided that menial or domestic servants shall in all cases be paid the balance of their last preceding year's wages out of the household furniture, goods and effects of every person so declared insolvent.

Proceedings in cases where persons die insolvent.

26. And whereas it is expedient that the estates and effects of deceased persons which may not be sufficient to pay all their just debts should be distributed according to the manner herein directed concerning the estates and effects of persons declared insolvent; be it further enacted, that as often as any person shall die in Newfoundland, or in any place or sea or territory within the Government thereof, and the estates and effects of such person shall not be sufficient to pay and satisfy all his or her just debts, it shall be lawful for the said Courts respectively, at the petition of the executor or executors, administrator or administrators of such deceased person, or any one or more of his or her creditors, to cause a true statement of the effects and debts of such deceased person to be made in writing by and upon the oath of the executor or executors, administrator or administrators, and laid before the said Courts respectively; and if it shall appear to the Court before which such statement shall be made that the estate and effects of such deceased person are not sufficient to pay all his or her just debts, it shall be lawful for such Court to authorize and empower the executor or executors, administrator or administrators of such deceased person to collect, sell, and dispose of all the estates and effects of such deceased person, and to distribute the produce thereof amongst his or her creditors, according to the manner of distribution by this act directed in respect of the estates of persons declared insolvent, and always subject to the orders and directions of such Court: Provided always, that nothing herein contained shall be construed to affect the right of any creditor having a judgment or special security for his or her debts.

Provision for judgment creditors.

Registrars of deeds appointed.

27.* And whereas it is expedient that provision should be made for the registration within the said colony of Newfoundland of all deeds, wills, and other assurances whereby

* Sections 27, 28, 29, 30, 31, 32 and 33, repealed by 25 Vic., Cap. 8. See chapter of Consolidated Statutes, entitled "Of Registration of Deeds."

any lands or tenements therein situate may be granted, conveyed, demised, mortgaged, charged or otherwise affected; be it further enacted that the chief clerk of the Supreme Court of Newfoundland shall be also the registrar of deeds within the district or circuit in which the town of St. John's may be situate, and that the chief clerks of each of the Circuit Courts to be holden in and for the two other districts of the said colony, shall respectively be the registrars of deeds within such other districts or circuits; and in each of the said three districts an office shall be kept by such chief clerk respectively, for the due registration of all such deeds, wills, and other instruments as aforesaid.*

28. And be it further enacted, that all deeds, wills, conveyances, and other assurances in writing, of what nature or kind soever, whereby any lands or tenements situate in the said colony or the dependencies thereof, may be hereafter granted, conveyed, devised, mortgaged, charged or otherwise affected or intended so to be, shall be registered at the office of registration within the district or circuit in which such lands may be situate; and that all such deeds, conveyances, and other assurances as aforesaid, shall be left for registration at such office within six months next after the execution thereof, by the party or parties from whom any interest may pass, in case such party or parties may, at the time of such execution thereof by him, her, or them, be resident within the said colony and its dependencies, or within twelve months in case such party or parties may at that time be resident elsewhere; and all such wills as aforesaid shall be left for registration at such office twelve months next after the death of the testator or testatrix.

Deeds shall be registered at the office of registration within the district in which the lands are situate within a certain time.

29. And be it further enacted, that some or one of the parties executing any such deed, conveyance, or other assurance as aforesaid, shall appear before the registrar of deeds, and acknowledge the execution thereof, by them, him, or her; or in case none of the parties to any such deed, conveyance, or assurance shall be resident in the said colony, then the same shall be acknowledged before the said registrar of deeds by some person duly appointed for that purpose as

How deeds shall be verified before the registrar.

* See chapter of Consolidated Statutes, entitled "Of Registration of Deeds."

the attorney of such parties ; and in that case the execution of every such deed, conveyance, or other assurance shall be further verified by an affidavit to be sworn before the mayor or other principal magistrate of any city, town, or place in or near to which such parties respectively may be resident ; and such affidavit shall also be preserved and registered at the office of the said registrar of deeds.

Registrar to
endorse on the
deed a certifi-
cate of regis-
try.

30. And be it further enacted that the registrar of deeds shall and he is hereby required to endorse and subscribe on every such deed, conveyance, or other assurance, a certificate in which shall be expressed the day or time when the same was so acknowledged before him, and the names of the person or persons by whom such acknowledgment was made, and the time when the same was actually registered, and the volume and page in which the registry thereof is entered ; and every such certificate so endorsed or subscribed shall be taken and allowed as evidence of the due registration of any such deed, conveyance or assurance.

Registrar to
enter in a book
of registry a
memorial of
the deed ack-
nowledged be-
fore him.

31. And be it further enacted, that the registrar of deeds shall and he is hereby required to enter into a book of registry, to be by him regularly kept for that purpose, a memorial of every deed, conveyance or assurance which shall be so acknowledged before him ; and every such memorial shall contain a statement of the year and day of the month on which such deed, conveyance, or assurance shall bear date, the names and additions of all and every the parties, as well as the names and additions, if any, of the several subscribing witnesses thereto, the description at length of the lands or tenements conveyed or intended to be conveyed, charged, or affected by such deed, conveyance or assurance, as the same are therein described, and the consideration of every such deed, conveyance, or assurance, as the same may be therein stated ; all which memorials shall be entered and recorded in the said book of registry with all convenient dispatch, in the order of time in which the same may have been acknowledged before the said registrar.

Deeds hereaf-
ter to be made,
conveying
lands, &c., not
duly register-
ed, declared
void.

32. And be it further enacted, that every deed, conveyance or assurance hereafter to be made, whereby any lands or tenements situate in Newfoundland, or the dependencies thereof, shall be granted, conveyed, released, charged, or in-

cumbered, or intended so to be, which shall not be registered within the time and in the manner hereinbefore mentioned, shall be absolutely null and void to all intents and purposes: Provided always, that every such deed, conveyance, or assurance shall be deemed and taken to be a registered deed, conveyance, or assurance within the meaning of this act, from the time when the execution thereof shall be acknowledged in manner aforesaid, before such registrar of deeds as aforesaid.

Repealed by
colonial act 1
Vic., Cap. 5.

33. And be it further enacted, that the Judges of the Supreme Court of Newfoundland shall be and they are hereby authorized to make any general rules and orders of Court for maintaining order and regularity in the mode of taking such acknowledgments, and registering such deeds, wills, and conveyances, and other assurances as aforesaid, and for executing the duties of the said office of registrar of deeds: Provided that such rules and orders be not in any wise repugnant to the provisions of this present act in that behalf.

Supreme Court
authorized to
make rules and
orders for the
registry of
deeds, &c.

34. And whereas the Justices of the Peace in Newfoundland have been used to grant licenses* for the retail of ale and spirituous liquors, and it is proper to regulate the sums to be demanded upon such licenses, and to make provisions for the appropriation thereof, and for preventing abuses in the granting of such licenses, and in the sale of spirits by unlicensed persons in the said colony; be it therefore enacted, that it shall and may be lawful for the Governor or acting Governor of Newfoundland to make, establish, and ordain such rules and ordinances as to him may seem meet respecting the granting of such licenses, and the recalling the same, and the amount of the sums to be demanded and taken for every such license, and the appropriation of such sums to his Majesty's service in the said colony, and for preventing the retail of ale and spirituous liquors by persons not duly licensed, and to impose such pecuniary fines or other penalties as may be necessary for enforcing obedience to any such rules or ordinances as aforesaid.

Governor may
establish ordi-
nances for the
granting of li-
censes for the
retail of ale and
spirits, and as
to the sums to
be paid, and
appropriation.

35. And be it further enacted, that it shall and may be lawful for his Majesty by charter or letters patent under the great seal, to constitute and erect such persons as to his

His Majesty
may grant
charters for es-
tablishing cor-
porations for
the govern-
ment of towns.

* See chapter of Consolidated Statutes, entitled "Of Licenses," &c.

Majesty shall seem meet a body or bodies corporate and politic, for the government of any town or towns situate within the said colony of Newfoundland or its dependencies, and to grant to such body or bodies politic and corporate power to make bye-laws for regulating the police of any such town or towns and for the prevention or abatement of nuisances therein, and for the prevention of accidents by fire ; and also to grant to any such body or bodies politic and corporate as aforesaid the power to impose and levy such reasonable and moderate rates and assessments upon the inhabitants and householders in such town or towns as may be necessary for carrying into effect the several purposes aforesaid, or any of them ; and it shall also be lawful for his Majesty, his heirs and successors, by any order or orders to be made by and with the advice of his or their Privy Council, to dissolve any such corporation or corporations as aforesaid, upon and subject to such conditions and regulations as may be made in and by any such order or orders in that behalf.

Continuance
of Act.

36. And be it further enacted, that this act shall continue and be in force for five years from the passing thereof, and no longer.

ROYAL CHARTER

FOR ESTABLISHING THE SUPREME AND CIRCUIT COURTS OF
NEWFOUNDLAND.

GEORGE THE FOURTH, *by the Grace of God,
of the United Kingdom of Great Bri-
tain and Ireland, King, Defender of
the Faith.*

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING :

WHEREAS, by an Act of Parliament passed in the fifth year of our reign, intituled "An act for the better adminis-
tration of justice in Newfoundland and for other purposes," it is amongst other things enacted, that it shall and may be lawful for us, by our charter or letters patent under the great seal, to institute a superior Court of judicature in Newfoundland, which shall be called "the Supreme Court of Newfoundland." And it is thereby further enacted, that the said Supreme Court shall be holden by a Chief Judge and two assistant Judges, being respectively barristers in England or Ireland of at least three years standing, or in some of our colonies or plantations. And it is thereby further enacted, that it shall and may be lawful for us, by any such charter or letters patent as aforesaid, to institute Circuit Courts* in each of the three districts into which the said colony may be so divided, as in the said act mentioned. And it is thereby further enacted, that it shall be lawful for us, our heirs and successors, by such charter or letters patent as aforesaid, or by any order or orders to be thereafter issued, by and with the advice of our or their Privy Council, to

Recital of Act
5 G. 4, c. 67.

And of author-
ity to institute
Supreme Court

And Circuit
Courts.

* Circuit Courts abolished by 30 Vic., Cap. 9.

make and prescribe, or to authorize and empower the said Supreme Court of Newfoundland, under such limitations as we shall deem proper, to make and prescribe such rules and orders, touching and concerning the forms and manner of proceeding in the said Supreme Court and Circuit Courts respectively; and the practice and pleadings upon all indict-

Recital of authority to make rules and orders, and to empower Supreme Court to make rules and orders.

ments, informations, actions, suits, and other matters to be therein brought, or touching or concerning the appointment of commissioners to take bail and examine witnesses; the taking examination of witnesses, *de bene esse*, and allowing the same as evidence; the granting of probates of wills and letters of administration; the proceedings of the Sheriff and his deputies, and other ministerial officers; the summoning of assessors for the trial of crimes and misdemeanors in the said Circuit Courts; the process of the said Courts and the mode of executing the same; the empannelling of juries, the admission of barristers, attorneys and solicitors; the fees, poundage, or perquisites to be lawfully demanded by any officer, attorney, or solicitor, in the said Courts respectively; and all other matters and things whatsoever, touching the practice of the said Courts, as to us, our heirs and successors shall seem meet for the proper conduct of business in the said Courts; and such rules and orders from time to time to alter, amend or revoke, as to us, our heirs and successors, shall seem requisite. And it is thereby further enacted,

And to permit appeals to his Majesty in Council.

that it shall and may be lawful for us, by our said charter or letters patent, to allow any person or persons aggrieved by any judgment, decree, order, or sentence of the said Supreme Court to appeal therefrom to us in Council, in such manner, within such time, and under and subject to such rules, regulations, and limitations, as we, by such charters and letters patent, shall appoint and direct. Now know ye that we, upon full consideration of the premises, and of our especial grace, certain knowledge, and mere motion, have, in pursuance and by virtue of the said act of Parliament, thought fit to grant, direct and appoint that there shall be within our said colony of Newfoundland a Court which

Institution of Supreme Court to be a Court of record, and to be composed

shall be called "the Supreme Court of Newfoundland." And we do hereby create, erect and constitute the said Supreme Court of Newfoundland to be a Court of Record;

and do direct and appoint that the same shall be composed of and holden by one Chief Judge and two assistant Judges. And we do hereby give and grant to our said Chief Judge rank and precedence above and before all our subjects whatsoever within the said colony of Newfoundland aforesaid, and the islands, territories and places dependent thereupon, excepting the Governor or acting Governor for the time being of the said colony, and excepting all such persons as by law or usage take place in England before our Chief Justice of our Court of King's Bench. And we do hereby give and grant to our said assistant Judges rank and precedence within our said colony, and the islands, territories and places dependent thereupon, next after our said Chief Judge, the said assistant Judges taking precedence between themselves according to the priority of their respective appointments to the said office, or where they may be both appointed at the same time, then according to their seniority as barristers. And we do further grant, ordain, and appoint that the said Supreme Court of Newfoundland shall have and use, as occasion may require, a seal bearing a device and impression of our royal arms, with an exergue or label surrounding the same, with this inscription, "The seal of the Supreme Court of Newfoundland." And we do hereby grant, ordain and appoint that the said seal shall be delivered to and kept in the custody of the said Chief Judge. And we do further grant, ordain and declare that the said Chief Judge and assistant Judges, so long as they shall hold their respective offices, shall be entitled to have and receive the following salaries, that is to say: our said Chief Judge *a salary of one thousand two hundred pounds sterling money, by the year; and each of our assistant Judges a salary of seven hundred pounds, like sterling money, by the year;** and our Governor or acting Governor for the time being of the said colony is hereby directed and required to cause such salary to be paid to the said Chief Judge and assistant Judges out of the revenue of the said colony by four quarterly payments, at the four most usual days of payment in the year. And we do further grant, ordain, and declare that the said salary shall commence and

and holden by a Chief Judge and two assistant Judges.

Rank and precedence of Chief Judge and assistant Judges.

Seal of Supreme Court.

Salaries of Judges.

Commencement of salary.

* Repealed by 18 and 19 Vic., Cap. 8.

To be in lieu of
all fees, &c.

Judges, never-
theless, may
occupy official
residences
without pay-
ment of rent
and repairs.

Acceptance of
place of profit
or emolument
to be an avoid-
ance of office.

First Chief
Judge and as-
sistant Judges.

take place, in respect to any person who shall be resident in Great Britain or Ireland at the time of his appointment, upon and from the day on which any such person shall thereupon embark or depart from Great Britain or Ireland for Newfoundland, and to take upon him the execution of the said office; and that the salary of any such Chief Judge or assistant Judges, who shall at the time of his appointment be resident in Newfoundland aforesaid, shall commence and take place from and after his taking upon him the execution of such office, and that such salary shall be in lieu of all fees of office, perquisites, emoluments and advantages whatsoever; and that no fees of office, perquisite, emolument or advantage whatsoever, other than and except the said salary, shall be accepted, received or taken by such Chief Judge or assistant Judges, in any manner or on any account or pretence whatsoever: Provided nevertheless, that it shall be lawful for the said Chief Judge or assistant Judges to occupy and inhabit any official house or residence within the said colony of Newfoundland which hath been or may hereafter be provided for their or any of their residence and occupation, without paying to us, our heirs and successors any rent for the same, and without being obliged to repair, uphold or maintain any such house or official residence at his own cost and charges. And we do further grant, appoint and declare that no Chief Judge or assistant Judges of the said Supreme Court of Newfoundland, shall be capable of accepting, taking or performing any office or place of profit or emolument on pain that the acceptance of any such other office or places aforesaid, shall be and be deemed in law, *de facto*, an avoidance of the office of such Chief Judge or assistant Judge, as the case may be; and the salary thereof shall cease and be deemed to have ceased accordingly from the time of such acceptance of any such other office or place.* And we do hereby constitute and appoint our trusty and well-beloved RICHARD ALEXANDER TUCKER, Esq., to be the first Chief Judge of the said Supreme Court of Newfoundland, the said RICHARD ALEXANDER TUCKER being a barrister in England of three years standing and upwards. And we do hereby constitute and

*As to this see 34 Vic., Cap. 6.

appoint our trusty and well-beloved AUGUSTUS WALLET DESBARRES and JOHN WILLIAM MULLOY, Esquires, to be first assistant Judges of the said Supreme Court, the said AUGUSTUS WALLET DEBARRES and JOHN WILLIAM MOLLOY being respectively barristers of three years standing and upwards. And we do hereby grant, direct and appoint that there shall be within our said colony of Newfoundland three Circuit Courts,* to be held in each of the three districts into which the said colony may be divided in pursuance of the said act of parliament. And we do hereby erect, create and constitute the said Circuit Courts respectively to be Courts of Record; and do direct and appoint that each of the said Circuit Courts shall be holden by the Chief Judge or one of the assistant Judges of the Supreme Court of Newfoundland aforesaid. And we do direct and appoint that the Chief Judge of the said Supreme Court shall be always at liberty to decide which of the three Circuit Courts shall be holden by him, and that the senior assistant Judge shall be always at liberty to decide which of the two remaining Circuit Courts shall be holden by him. And we do hereby ordain, appoint and declare, that there shall be and belong to the said Supreme Court and Circuit Courts respectively, such and so many officers as to the Chief Judge of the said Supreme Court for the time being shall, from time to time, be deemed necessary for the administration of justice and the due execution of all the powers and authorities which are granted and committed to the said Supreme Court and Circuit Courts respectively by the said act of parliament, or by these our letters patent: Provided nevertheless, that no office shall be created in the said Courts or any of them, unless the Governor or acting Governor, for the time being, of our said colony, shall first signify his approbation thereof to our said Chief Judge for the time being, in writing under the hand of such Governor or acting Governor as aforesaid. And we do further ordain and direct, that all persons who shall and may be appointed to the several offices of master, registrar, accountant-general, or prothonotary, of the said Supreme Court or

Circuit Courts.

Chief Judge and senior assistant Judge to choose circuits.

Supreme and Circuit Courts to have so many officers as Chief Judge shall deem necessary.

But no office to be created without the Governor's approbation.

Appointment to offices of master, registrar, &c., to be by warrant under royal sign

* Circuit Courts abolished, see 30 Vic. Cap. 9; and see chapter of Consolidated Statutes, entitled "Of Supreme Court," &c.

manual; other officers by the Chief Judge. Circuit Courts of Newfoundland, or to any office in the said Courts, or any of them, whereof the duties shall correspond to those performed by the master, registrar, accountant-general, or prothonotary of any or either of our Courts of Record at Westminster, shall be so appointed by us, our heirs and successors, by warrant under our or their royal sign manual, to hold such their offices during our or their pleasure; and that all persons who shall and may be appointed to any other office within the said Supreme Court of Newfoundland, or within the said Circuit Courts of Newfoundland, shall be so appointed by the Chief Judge, for the time being, of the said Supreme Court, and shall be subject and liable to be removed from such their offices by the said Chief Judge upon reasonable and sufficient cause.

Supreme Court empowered to admit barristers or advocates of Great Britain and Ireland, and attornies, solicitors and writers of Courts at Westminster, Dublin or Edinburgh, also proctors in English ecclesiastical Courts, to act both as barristers, &c. of Supreme Court of Newfoundland. And we do hereby authorize and empower the said Supreme Court of Newfoundland to approve, admit, and enrol such and so many persons, having been admitted barristers-at-law, or advocates, in Great Britain and Ireland, or having been admitted writers, attorneys or solicitors, in one of our Courts at Westminster, Dublin, or Edinburgh, or having been admitted as proctors in any ecclesiastical Court in England, to act as well in the character of barristers and advocates, as of proctors, attorneys and solicitors in the Supreme Court of Newfoundland, and which persons so approved, admitted and enrolled, as aforesaid, shall be, and are hereby authorized to appear and plead and act for the suitors of the said Supreme Court, subject always to be removed by the said Supreme Court from their station therein upon reasonable cause. And we do further authorize the said Supreme Court of Newfoundland to admit and enrol as barristers, advocates, attorneys, proctors, or solicitors therein* such and so many persons as may have

Also persons serving a clerkship of five years to any such barrister or attorney. No other person to appear and plead. served a clerkship, under articles in writing, for the term of five years at the least, to any barrister, advocate, proctor, attorney or solicitor of the Supreme Court aforesaid. And we do declare that no person or persons, other than the persons aforesaid, shall be allowed to appear, plead, or act in the Supreme Court of Newfoundland, for and on behalf of the suitors of the said Court, or any of them. Provided

Proviso in case

* See chapter of Consolidated Statutes, entitled, "Of Law Society," &c.

always, and we do ordain and declare, that in case there shall not be a sufficient number of such barristers-at-law, advocates, solicitors, writers, attorneys, solicitors and proctors, or of persons so admitted and enrolled as aforesaid, to act as such within the said colony, competent and willing to appear and act for the suitors of the said Supreme Court, then and in that case the said Supreme Court of Newfoundland shall and is hereby authorized to admit so many other fit and proper persons to appear and act as barristers, advocates, proctors, attorneys and solicitors as may be necessary according to such general rules and qualifications as the said Supreme Court shall for that purpose make and establish. And we do hereby authorize the said Supreme Court to make and prescribe such rules and orders as to them may seem expedient and necessary with regard to the admission of persons to practice the law, and appear and act in the character of barristers and advocates, proctors, attorneys and solicitors in the said Circuit Courts respectively. And we do hereby ordain and declare that the Governor or acting Governor for the time being of the said colony of Newfoundland shall yearly, and on the Monday next following the first day of January in each year, by warrant under his hand and seal, nominate and appoint some fit and proper person to act as and be the Sheriff* for our said colony of Newfoundland and its dependencies, other than except the coast of Labrador, for the year ensuing; which Sheriff, when appointed shall, as soon as conveniently may be, and before he shall enter upon his said office take, before the Governor or acting Governor of our said colony, an oath faithfully and impartially to execute the duties of such his office; and such Sheriff shall continue in such his office during the space of one whole year, to be computed from the said Monday next following the first day of January in each year, and until another Sheriff shall be appointed and sworn into the said office. And in case any such Sheriff should die in his said office, or depart from our said colony of Newfoundland and its dependencies, then and in such case another person shall, as soon as conveniently may be after the death or departure of such Sheriff, be in like man-

of insufficient number of such barristers, attorneys, &c.

Court to make rules and orders as to admission of barristers, attorneys, &c.

Appointment of Sheriff.

To continue in office for one year.

Provision in case of death, &c., of Sheriff.

* See chapter of Consolidated Statutes, entitled "Of Sheriffs."

ner appointed and sworn in as aforesaid, and shall continue in his office for the remainder of the year, and until another Sheriff shall be duly appointed and sworn into the said office. And we do further direct and appoint that it shall and may be lawful for the Governor or acting Governor of the said colony to renew from year to year the appointment

Securities
of Sheriff.

of the same person as Sheriff for our said colony and its dependencies; and that in selecting the person to be appointed to the execution and discharge of the said office, the said Governor or acting Governor shall conform to such written instructions or commands as may from time to time be signified by us, our heirs or successors, to him through one of our or their principal secretaries of state. And we do

Duties of Sheriff and deputies.

further direct that, before entering upon the execution of the duties of his said office, the said Sheriff shall enter into a recognizance to us in the said Supreme Court of Newfoundland, in the sum of five thousand pounds, with two good and sufficient sureties, in the sum of two thousand pounds each, for the due and faithful performance of the duties of such his office, and for the due and punctual payment of all such sums of money as may by him or his lawful deputies be levied or received by virtue of any process, rule or order of the said Supreme Court or Circuit Courts, or any of them. And we do further direct that the said Sheriff shall, on the first Monday of each calendar month, produce before the Chief Judge or one of the assistant Judges aforesaid, a written account of all the money by him or by his lawful deputies received during the calendar month last preceding, and stating the application thereof, so far as the same by him or them have been applied, and also stating the exact balance of such moneys then remaining in the possession of himself or his said deputies, so far as the returns received from such deputies enable him to make out the said accounts. And we do further order that the said Chief Judge or assistant Judges, as the case may be, shall cause the said account to be publicly exhibited in the office of the prothonotary or registrar of the said Supreme Court for the space of one calendar month next after the same shall have been so rendered, and shall then cause the same to be enrolled among the records of the said Court. And

To exhibit
monthly accounts.

To execute process.

we do further order, direct and appoint that the said Sheriff and his successors shall, by themselves or their sufficient deputies, to be by them appointed and duly authorized under their respective hands and seals, and for whom he and they shall be responsible during his or their continuance in such office, execute, and the said Sheriff, by himself or his lawful deputies, is hereby authorized to execute the writs, summonses, rules, orders, warrants, commands, and process of the said Supreme Court and the said Circuit Courts, and to make return of the same, together with the manner of the execution thereof, to the said Supreme Court and Circuit Courts respectively, and to receive and detain in prison all such persons as shall be committed to the custody of such Sheriff by the said Supreme Court and Circuit Courts respectively, or by the Chief Judge or assistant Judges or either of them. And we do further direct, ordain and appoint that whenever the said Supreme Court or any of the said Circuit Courts shall direct or award any process against the said Sheriff, or shall award any process in in any cause, matter or thing wherein the said Sheriff on account of his being related to the parties or any of them, or by reason of any good cause of challenge which would be allowed against any Sheriff in England, cannot or ought not by law to execute the same, then, and in every such case, the said Supreme Court or the said Circuit Courts, as the case may be, shall name and appoint some other fit person to execute and return the same. And the said process shall be directed to the person so to be named for that purpose ; and the cause of such special processes shall be suggested and entered on the records of the Court issuing the same : Provided always, and we do hereby ordain and declare that the said Supreme Court and the said Circuit Courts shall respectively fix certain limits beyond which the said Sheriff shall not be compelled or compellable to go, in person or by his officers or deputies, for the execution of any process of the said Courts respectively ; and upon occasion, when the process of any of the said Courts shall be to be executed in any place or places beyond the limits so to be fixed, we grant, ordain and direct that the said Supreme Court or Circuit Courts respectively, as the case may be, shall, upon

To have custody of prisoners.

How process to be directed, &c. where Sheriff is interested.

Limits of his jurisdiction to be fixed.

How process to be executed beyond limits.

motion, direct by what person or persons, and in what manner such process shall be executed, and the terms and conditions which the party at whose instance the same shall be issued shall enter into in order to prevent any improper use or abuse of the process of the said Courts. And the said Sheriff shall, and he is hereby required to grant his special

Special deputation to be granted by Sheriff.

warrant or deputation to such person or persons as the Court making any such order shall direct for the execution of such process; and in that case we direct and declare that the said Sheriff, his heirs, executors or administrators, shall not be responsible or liable for any act to be done in or any way respecting the execution of such process under and by virtue of such special warrant; and that any person or persons being aggrieved under or by virtue of such special warrant, shall and may seek their remedy under any security which may have been directed to be taken upon the occasion, and which the Court issuing such process is hereby authorized to direct to be taken. And it is our further will and pleasure, and we do hereby for us, our heirs and successors, grant and ordain, establish and appoint, that the said Su-

Supreme Court to grant probates and letters of administration, according to the usage in the diocese of London.

preme Court shall grant probates* under the seal of the said Court, of the last wills and testaments of all or any of the inhabitants of the said colony and its dependencies, and of all other persons who shall die and have personal effects within the said colony and its dependencies, and to commit letters of administration under the seal of the said Supreme Court, of the goods, chattels, credits and all other effects whatsoever of the persons aforesaid who shall die intestate or who shall not have named an executor resident within the said colony and its dependencies, or where the executor being duly cited shall not appear and sue forth such probate, annexing the will to the said letters of administration, when such persons shall have left a will, and to sequester the goods, chattels, credits and other effects whatsoever, of such persons so dying, in cases allowed by the law, as the same is and may be now used in the diocese of London; and to demand, require, take, hear, examine and allow, and if occasion require, to disallow and reject the accounts of them, in such manner and form as

* See chapter of Consolidated Statutes entitled, "Of Probates and Administration."

is now used or may be used in the said diocese of London, and to do all other things whatsoever needful and necessary in that behalf; Provided always, and we do hereby authorize and require the said Supreme Court, in such cases as aforesaid, where letters of administration shall be committed with the will annexed for want of an executor appearing in due time to sue forth the probate, to reserve in such letters of administration full power and authority to revoke the same, and to grant probate of the said will to such executor whenever he shall duly appear and sue forth the same. And we do hereby further authorize and require the said Supreme Court of Newfoundland to grant and commit such letters of administration to any one or more of the lawful next of kin of such persons so dying, as aforesaid, being then resident within the jurisdiction of the said Supreme Court, and being of the age of twenty-one years: Provided always, that probates of wills and letters of administration to be granted by the said Supreme Court shall be limited to such moneys, goods, chattels, and effects as the deceased person shall be entitled to within the said colony and its dependencies. And we do hereby further enjoin and require that every person to whom such letters of administration shall be committed, shall, before the granting thereof, give sufficient security by bond to be entered into, to us, our heirs and successors, for the payment of a competent sum of money, with one, two, or more able sureties, respect being had in the sum therein to be contained, and the ability of the sureties, to the value of the estate, credits, and effects of the deceased, which bond shall be deposited in the said Supreme Court, among the records thereof, and there safely kept; and a copy thereof shall be also recorded among the proceedings of the said Supreme Court; and the condition of the said bond shall be to the following effect: "That if the above bounden administrator of the goods, chattels, and effects of the deceased, do make or cause to be made a true and perfect inventory of all and singular the goods, credits, and effects of the said deceased which have or shall come to the hands, possession or knowledge of him the said administrator, or to the hands or possession of any other person or persons for him, and the same so

Administrati-
on to be grant-
ed to next of
kin.

Probates and
administra-
tions only to
affect property
within the co-
lony.

Administrati-
on bond.

Form of it.

made do exhibit, or cause to be exhibited, in the said Supreme Court of Newfoundland, at or before a day therein to be specified ; and the same goods, chattels, credits, and effects, and all other the goods, chattels, credits, and effects of the deceased at the time of his death, or which at any time afterwards shall come to the hands or possession of any such administrator, or to the hands or possession of any such other person or persons for him, shall well and truly administer according to law ; and further to make, or cause to be made a true and just account of his said administration at or before a time therein to be specified, and afterwards, from time to time, as he, she, or they shall be lawfully required ; and all the rest and residue of the said goods, chattels, credits, and effects which shall be found, from time to time, remaining upon the said administration accounts, the same being first examined and allowed of by the said Supreme Court of Newfoundland, shall and do pay and dispose of in a due course of administration or in such manner as the said Court shall direct, then this obligation to be void and of none effect, or else to be and remain in full force and virtue." And in case it shall be necessary to put the said bond in suit for the sake of obtaining the effect thereof, for the benefit of such person or persons as shall appear to the said Court to be interested therein, such person or persons from time to time giving satisfactory security for paying all such costs as shall arise from the said suit or any part thereof, such person or persons shall, by order of the said Supreme Court, be allowed to sue the same in the name of the Attorney General for the time being of the said colony, and the said bond shall not be sued in any other manner. And we do hereby authorize and empower the said Supreme Court to order that the said bond shall be put in suit in the name of the said Attorney General. And we do further will, order, and require, that the said Supreme Court shall fix certain periods when all persons to whom probates of wills and letters of administration shall be granted by the said Supreme Court, shall from time to time, until the effects of the deceased shall be fully administered, pass their accounts relating thereto before the said Court ; and in case the effects of the deceased shall not be fully administered within the time for

Bond to be
sued in name
of Attorney
General.

Passing of ac-
counts.

that purpose to be fixed by the said Court, then, or at any earlier time, if the said Supreme Court shall see fit so to direct, the person or persons to whom such probate or administration shall be granted shall deposit and dispose of the balance of money belonging to the estate of the deceased, then in his, her or their hands, and all money which shall afterwards come into his, her, or their hands, and also all precious stones, jewels, bonds, bills, and securities, belonging to the estate of the deceased, in such manner, and unto such persons, as the said Supreme Court shall direct, for safe custody. And we require that the said Supreme Court shall from time to time make such order as shall be just for the due administration of such assets, and for the payment or remittance thereof as occasion shall require, to or for the use of any person or persons whether resident or not resident in the said Colony and its dependencies, who may be entitled thereto or any part thereof as creditors, legatees or next of kin, or by any other right or title whatsoever. And we do hereby, in exercise and in pursuance of the power in us by the said act of parliament in that behalf vested, authorize and empower the said Supreme Court of Newfoundland, under such limitations as hereinafter mentioned, to make and prescribe such rules and orders as may be expedient touching and concerning the forms and manner of proceeding in the said Supreme Court and Circuit Courts respectively, and the practice* and pleadings upon all indictments, informations, actions, suits, and other matters to be therein brought, and touching and concerning the appointment of commissioners to take bail and examine witnesses; the taking examination of witnesses, *de bene esse*, and allowing the same as evidence; the granting of probates of wills and letters of administration; the proceedings of the Sheriff and his deputies, and other ministerial officers; the summoning of assessors for the trial of crimes and misdemeanours in the said Circuit Courts; the process of the said Courts and the mode of executing the same; the empannelling of juries; the admission of barristers, attorneys, and solicitors; the fees, poundage or perquisites to be lawfully demanded by any offi-

Depositing balances.

Distribution.

Supreme Court to prescribe rules and orders as to form and manner of proceeding, and the practice of the Supreme and Circuit Courts.

*See chapters of Consolidated Statutes entitled, "Of Practice, &c., Supreme Court in St. John's," and "Of Practice Supreme Court on Circuit."

- cer, attorney or solicitor, in the said Courts respectively; and all other matters and things whatsoever, touching the practice of the said Courts, as may be necessary for the proper conduct of business therein; and such rules and orders from time to time to alter, amend or revoke, as may be requisite:
- Proviso.** Provided always, that no such rules or orders be in anywise repugnant to the said act of parliament or this our charter: Provided further, that all such rules and orders be promulgated in the most public and authentic manner in our said colony for three calendar months, at least, before the same shall operate and take effect, and that the same be, by the first convenient opportunity, transmitted through the Governor or acting Governor of our said colony, to us, our heirs and successors, for the signification of our or their pleasure, respecting the allowance or disallowance thereof. And we do hereby direct, ordain, and appoint, that any person or persons feeling aggrieved by any judgment, decree, order, or sentence of the said Supreme Court, may appeal to us, our heirs and successors, in our or their Privy Council, in such manner and within such time and under and subject to such rules, regulations, and limitations as are hereinafter mentioned, that is to say: in case any such judgment, decree, order, or sentence of the said Supreme Court shall be given or pronounced for or in respect of any sum or matter at issue above the amount or value of five hundred pounds sterling, or in case such judgment, decree, order, or sentence shall involve directly or indirectly any claim, demand, or question of or respecting property, or any civil right amounting to or of the value of five hundred pounds sterling, the person or persons feeling aggrieved by any such judgment, decree, order, or sentence of the said Supreme Court, may within fourteen days next after the same shall have been pronounced, made, or given, apply to the said Supreme Court by petition for leave to appeal therefrom to us, our heirs and successors, in our or their Privy Council; and in case such leave to appeal shall be prayed by the party or parties who is or are directed to pay any sum of money or perform any duty, the said Supreme Court shall and is hereby empowered either to direct that the judgment, decree, order, or sentence appealed from shall be carried into execution,
- To be promulgated 3 months before taking effect;**
- And to be subject to royal allowances.**
- Appeal to his Majesty in Council, how regulated.**
- Sum or matter at issue to be £500, or involves value to that amount.**
- To petition 14 days after decree, &c.**
- Terms of leave to appeal.**

or that the execution thereof shall be suspended pending the said appeal, as to the said Court may appear to be most consistent with real and substantial justice. And in case the said Supreme Court shall direct such judgment, decree, order or sentence to be carried into execution, the person or persons in whose favor the same shall be given shall, before the execution thereof, enter into good and sufficient security, to be approved by the said Supreme Court, for the due performance of such judgment or order as we, our heirs or successors, shall think fit to make thereupon; or in case the said Supreme Court shall direct the execution of any such judgment, decree, order or sentence to be suspended, pending the appeal, the person or persons against whom the same shall have been given, shall in like manner, and before any order for the suspension of any such execution is made, enter into good and sufficient security to the said Supreme Court for the due performance of such judgment or order as we, our heirs and successors, shall think fit to make thereupon. And in all cases we will and require that security shall be given by the party or parties appellant, to the satisfaction of the said Supreme Court, for the prosecution of the appeal and for the payment of all such costs as may be awarded by us, our heirs and successors to the parties or party respondent; and if the last-mentioned security shall be entered into within three months from the date of such petition for leave to appeal, then and not otherwise the said Supreme Court shall allow the appeal, and the party or parties appellant shall be at liberty to prefer and prosecute his, her or their appeal to us, our heirs and successors, in our or their Privy Council, in such manner and form and under such rules as are observed in appeals made to us from our plantations or colonies. And we do hereby reserve to ourself, our heirs and successors, in our or their Privy Council, full power and authority upon the humble petition at any time of any person or persons feeling aggrieved by judgment, decree or order or sentence of the said Supreme Court, to refuse or admit his, her or their appeal therefrom, upon such terms and upon such limitations, restrictions and regulations as we or they shall think fit, and to reform, correct, or vary such judgment, decree, order or sentence as to us or them shall seem meet.

Judgment to be stayed on security.

Security to be given to prosecute appeal, &c within three months from date of petition.

Reservation in case of refusal of leave by Supreme Court.

Copies of proceedings to be certified, under seal of Court.

Governors, &c. to aid in execution of the charter.

Proviso that nothing herein contained shall prevent the making of further provision for the administration of justice.

And it is our further will and pleasure that in all cases of appeal allowed by the said Supreme Court or by us, our heirs and successors, the said Supreme Court shall certify and transmit to us, our heirs or successors, in our or their Privy Council, a true and exact copy of all evidence, proceedings, judgments, decrees, sentences, and orders, had or made in such cases appealed, so far as the same have relation to the matter of appeal, such copies being under the seal of the said Court. And we do further direct and ordain, that the said Supreme Court of Newfoundland shall, in all cases of appeal to us, our heirs and successors, conform to and execute or cause to be executed, such judgments and orders as we our heirs and successors, shall think fit to make in the premises, in such manner as any original judgment, sentence, decree or decretal order, or other order or rule of the said Supreme Court of Newfoundland, could or might have been executed. And we do hereby strictly charge and command all Governors, commanders, magistrates, ministers, civil and military, and all our liege subjects within and belonging to the said colony, that in the execution of the several powers, jurisdictions and authorities hereby granted, made, given or created, they be aiding or assisting and obedient in all things, as they will answer the contrary at their peril: Provided always that nothing in these presents contained, or any act which shall be done under the authority hereof, shall extend or be construed to extend to prevent us, our heirs and successors, as far as we lawfully may, from repealing these presents, or any part thereof, or from making such further or other provision, by letters patent, for the administration of justice, civil and criminal, within the said colony, and the places now or at any time hereafter annexed thereto, as to us, our heirs and successors, shall seem fit, in as full and ample manner as if these presents had not been made, these presents or anything herein contained to the contrary notwithstanding. In witness whereof we have caused these our letters to be made patent. Witness ourself at Westminster, the 19th day of September, in the sixth year of our reign.

By writ of privy seal.

BATHURST.

PROCLAMATION

AUTHORIZING THE GOVERNOR OF NEWFOUNDLAND TO CALL A GENERAL ASSEMBLY.

WILLIAM R.
(L. S.)

WILLIAM THE FOURTH, *by the Grace of
God, of the United Kingdom of
Great Britain and Ireland, King,
Defender of the Faith, &c., &c., &c.*

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING :

WHEREAS, by our letters patent under the great seal of our United Kingdom aforesaid, bearing date at Westminster the second day of March, 1832, in the second year of our reign, we have given and granted to our trusty and well-beloved Sir THOMAS JOHN COCHRANE, Knight, our Governor and Commander-in-Chief of our island of Newfoundland, full power and authority to summon and call a General Assembly of the free-holders and householders within our said island. It is therefore our pleasure, and we do hereby declare and make known to all our loving subjects within the same, that for the purpose of the election of the members of the said Assembly, the said island shall be divided into nine districts, to be called respectively :

The district of St. John's.

The district of Conception Bay.

The district of Fogo.

The district of Bonavista.

The district of Trinity Bay.

The district of Ferryland.

The district of Placentia and St. Mary's.

The district of Burin.

The district of Fortune Bay.

And it is our further will and pleasure, and we do hereby declare that the before-mentioned district of St. John's shall consist of and include all that part of our said island bounded by the shore which is situate and lying between Petty Harbor and Broad Cove.

And that the before-mentioned district of Conception Bay shall consist of and include all that part of our said island which, bounded in like manner, is situate and lying between Broad Cove and Bay Verds Head.

And that the before-mentioned district of Fogo shall consist of and include all that part of our said island which, bounded in like manner, is situate between Cape St. John and Fogo Island, including that island.

And that the before-mentioned district of Bonavista shall consist of and include all that part of our said island which, bounded in like manner, is situate and lying between Cape Freels and Cape Bonavista.

And that the before-mentioned district of Trinity Bay shall consist of and include all that part of our said island which, bounded in like manner, is situate and lying between Cape Bonavista and Cape Verds Head.

And, that the before-mentioned district of Ferryland shall consist of and include all of that part of our said island which, bounded in like manner, is situate and lying between Petty Harbor and Cape Race.

And that the before-mentioned district of Placentia and St. Mary's shall consist of and include all that part of our said island which, bounded in like manner, is situate and lying between Cape Race and Rushoon.

And that the before-mentioned district of Burin shall consist of and include all that part of our said island which, bounded in like manner, is situate and lying between Rushoon and Garnish.

And that the before-mentioned district of Fortune Bay shall consist of and include all that part of our said island which, bounded in like manner, is situate and lying between Garnish and Bonne Bay.

And we do further signify and declare our pleasure to be that the said district of St. John's shall be represented in the said Assembly by three members.

And that the said district of Conception Bay shall be represented in the said Assembly by four members.

And that each of the said districts of Fogo, of Bonavista, of Trinity

Bay and of Ferryland, shall be represented in the said Assembly by one member.

And that the said district of Placentia and St. Mary's shall be represented in the said Assembly by two members.

And that each of the said districts of Burin and Fortune Bay shall be represented in the said Assembly by one member.

And it is our will and pleasure that the Governor for the time being of our said island do appoint some fit person to be the returning officer within each of the said districts.

And we do further declare our pleasure to be that our said Governor do issue in our name writs for the election of the members of the several districts before mentioned, which writs shall be addressed to the several returning officers aforesaid, and shall by them be returned to the Colonial Secretary for the time being of our said island.

And it is our will and pleasure that every man, being of the full age of twenty-one years and upwards, and being of sound understanding, and being our natural-born subject, or having been lawfully naturalized, and never having been convicted in due course of law of any infamous crime, and having for two years next immediately preceding the day of election occupied a dwelling-house within our said island as owner or tenant thereof, shall be eligible to be a member of the said House of Assembly.

And it is our further will and pleasure that every man who, for one year next immediately preceding the day of election, hath occupied a dwelling-house within our said island, as owner or tenant thereof, and who in other respects may be eligible, according to the regulations aforesaid to be a member of the said House of Assembly, shall be competent and entitled to vote for the election of members of the said Assembly, in and for the district within which the dwelling-house so occupied as aforesaid may be situate.

And it is our pleasure that the votes for the members of the said Assembly shall be taken by the said several returning officers at such one or more place or places within each of the said districts as shall for that purpose be appointed in the body of the writ addressed to the returning officer of every such district respectively, and at or within such time or times as shall for the purpose be therein limited; but inasmuch as by reason of the difficulty in internal communication within our said island, many persons entitled to vote might be prevented from the exercise of such their franchise if, in every case, it were necessary to attend in person for that purpose, we do therefore

declare our pleasure to be, that in respect of any dwelling-house situate at the distance of more than fifteen miles from the nearest place of election, within any of the said districts, the vote of any householder duly qualified as aforesaid may be given without his personal attendance, by a written notice subscribed by such voter in the presence of two credible witnesses, and duly attested by their signatures; which notices shall be in such form as our Governor, for the time being of our said island, shall from time to time direct.

And it is our further pleasure that if any candidate or voter at any such election shall object to any vote thus tendered, it shall be the duty of the returning officer to hear such objection and what may be alleged in support of or in answer to the same, and to examine on oath the parties by or against whom such objection may be raised, and any person or persons who may be adduced as a witness or as witnesses on either side, and upon such hearing to admit or to overrule any such objection as may to such returning officer appear just and right.

And we further declare our will to be that the persons in favor of whom the greater number of votes shall be given in any such district shall be publicly declared by such returning officer to be duly elected to be the representatives thereof in the said General Assembly, and shall thereupon be returned and take their seats accordingly: Provided always, that in cases of peculiar doubt or difficulty it shall be competent to any such returning officer to make a special return setting forth the grounds of such doubt, upon which the said House of Assembly shall afterwards decide.

And it is our will, and we do further declare that the Assembly so to be chosen as aforesaid, shall continue only during our pleasure; and that the said Assembly shall not proceed to the despatch of any business unless six members at least shall be present at and during the whole of the deliberations of the said House thereupon.

And whereas it may be necessary, in order to the complete execution of the several purposes aforesaid, that further regulations should be made for the conduct of the said elections and the return of members to serve in the said House of Assembly, we have therefore authorized, and do hereby authorize our Governor for the time being of our said island, by any proclamation or proclamations to be by him from time to time issued in our name and in our behalf, to make such further regulations as may be necessary for the conduct of the said elections and for the return of members to serve in the said House of

Assembly, and for the due discharge of the duties of the said returning officer, and which regulations shall be of full force, virtue and effect, until provision be otherwise made by law; it being nevertheless our pleasure that the regulations so to be made as aforesaid be not repugnant to or inconsistent with the several provisions hereinbefore contained or any of them.

Given at our Court at St. James's, on the twenty-sixth
day of July, 1832, in the third year of our reign.

EXTRACTS FROM TREATIES BETWEEN GREAT BRITAIN
AND FRANCE, RELATING TO THE FISHERIES.

TREATY OF UTRECHT—1713.

ARTICLE 13. "The Island called Newfoundland, with the adjacent islands, shall from this time forward belong of right wholly to Great Britain; and to that end the town and fortress of Placentia, and whatever other places in the said island are in the possession of the French, shall be yielded and given up, within seven months from the exchange of the ratification of this treaty, or sooner, if possible, by the most Christian King, to those who have a Commission from the Queen of Great Britain for that purpose. Nor shall the most Christian King, his heirs and successors, or any of their subjects, at any time hereafter, lay claim to any right to the said island and islands, or to any part of it or them. Moreover, it shall not be lawful for the subjects of France to fortify any place in the said island of Newfoundland, or to erect any buildings there, besides stages made of boards, and huts necessary and usual for drying of fish, or to resort to the said island beyond the time necessary for fishing and drying of fish. But it shall be allowed to the subjects of France to catch fish, and to dry them on land, in that part only, and in no other besides that, of the said island of Newfoundland, which stretches from the place called Cape Bonavista to the northern point of the said island, and from thence, running down by the western side, reaches as far as the place called Point Riche. But the island called Cape Breton, as also all others, both in the mouth of the river St. Lawrence and in the gulph of the same name, shall hereafter belong of right to the French, and the most Christian King shall have all manner of liberty to fortify any place or places there."

TREATY OF PARIS—1763.

ARTICLE 5. "The subjects of France shall have the liberty of fishing and drying on a part of the coasts of the island of Newfoundland, such as it is specified in the 13th article of the treaty of Utrecht, which article is renewed and confirmed by the present treaty (except what relates to the island of Cape Breton, as well as to the other islands and coasts in the mouth and in the gulph of St. Lawrence); and his Britannic Majesty consents to leave to the subjects of the most Christian King the liberty of fishing in the gulph of St. Lawrence, on condition that the subjects of France do not exercise the said fishery but at the distance of three leagues from all the coasts belonging to Great Britain, as well those of the continent as those of the islands situated in the said gulph of St. Lawrence. And as to what relates to the fishery on the coasts of the island of Cape Breton out of the said gulph, the subjects of the most Christian King shall not be permitted to exercise the said fishery but at the distance of fifteen leagues from the coasts of the island of Cape Breton, and the fishery on the coasts of Nova Scotia or Acadia, and every where else out of the said gulph, shall remain on the foot of former treaties."

ARTICLE 6. "The King of Great Britain cedes the islands of St. Pierre and Miquelon in full right to his most Christian Majesty, to serve as a shelter to the French fishermen; and his said most Christian Majesty engages not to fortify the said islands, to erect no buildings upon them, but merely for the convenience of the fishery; and to keep upon them a guard of fifty men only for the police."

TREATY OF VERSAILLES.—1783.

ARTICLE 4. "His Majesty the King of Great Britain is maintained in his right to the island of Newfoundland, and to the adjacent islands, as the whole were assured to him by the thirteenth article of the treaty of Utrecht; excepting the islands of St. Pierre and Miquelon, which are ceded in full right by the present treaty to his most Christian Majesty."

ARTICLE 5. "His Majesty the most Christian King, in order to prevent the quarrels which have hitherto arisen between the two nations of England and France, consents to renounce the right of fishing, which belongs to him in virtue of the aforesaid article of the treaty of Utrecht, from Cape Bonavista to Cape St. John, situated on the eastern coast of Newfoundland, in fifty degrees north latitude; and his Majesty the King of Great Britain consents, on his part, that the fishery assigned

to the subjects of his most Christian Majesty, beginning at the said Cape St. John, passing to the north, and descending by the western coast of the island of Newfoundland, shall extend to the place called Cape Ray, situated in forty-seven degrees fifty minutes latitude. The French fishermen shall enjoy the fishery which is assigned to them by the present article, as they had the right to enjoy that which was assigned to them by the treaty of Utrecht."

ARTICLE 6. "With regard to the fishery in the gulph of St. Lawrence, the French shall continue to exercise it, conformably to the fifth article of the treaty of Paris."

DECLARATION OF HIS BRITANNIC MAJESTY.

"The King having entirely agreed with his most Christian Majesty upon the articles of the definitive treaty, will seek every means which shall not only insure the execution thereof, with his accustomed good faith and punctuality, and will besides give, on his part, all possible efficacy to the principles which shall prevent even the least foundation of dispute for the future.

"To this end, and in order that the fishermen of the two nations may not give cause for daily quarrels, his Britannic Majesty will take the most positive measures for preventing his subjects from interrupting in any manner, by their competition, the fishery of the French, during the temporary exercise of it which is granted to them upon the coasts of the island of Newfoundland; but he will, for this purpose, cause the fixed settlements which shall be formed there to be removed. His Britannic Majesty will give orders that the French fishermen be not incommoded in cutting the wood necessary for the repair of their scaffolds, huts and fishing vessels.

"The thirteenth article of the treaty of Utrecht, and the method of carrying on the fishery, which has at all times been acknowledged, shall be the plan upon which the fishery shall be carried on there. It shall not be deviated from by either party, the French fishermen building only their scaffolds, confining themselves to the repair of their fishing-vessels, and not wintering there; the subjects of his Britannic Majesty, on their part, not molesting in any manner the French fishermen during their fishing, nor injuring their scaffolds during their absence.

"The King of Great Britain, in ceding the islands of St. Pierre and Miquelon to France, regards them as ceded for the purpose of serving as a real shelter to the French fishermen, and in full confidence that

these possessions will not become an object of jealousy between the two nations, and that the fishery between the said islands and that of Newfoundland shall be limited to the middle of the channel.

“Given at Versailles, the 3rd September, 1783.

(L. S.)

“MANCHESTER.”

COUNTER DECLARATION OF HIS MOST CHRISTIAN MAJESTY.

“The principles which have guided the King in the whole course of the negotiations which preceded the re-establishment of peace, must have convinced the King of Great Britain that his Majesty has had no other design than to render it solid and lasting by preventing, as much as possible, in the four quarters of the world, every subject of discussion and quarrel.

“The King of Great Britain undoubtedly places too much confidence in the uprightness of his Majesty’s intentions not to rely upon his constant attention to prevent the islands of St. Pierre and Miquelon from becoming an object of jealousy between the two nations.

“As to the fishery on the coasts of Newfoundland, which has been the object of the new arrangements settled by the two sovereigns, upon this matter it is sufficiently ascertained by the fifth article of the treaty of peace signed this day, and by the declaration likewise delivered to-day by his Britannic Majesty’s Ambassador Extraordinary and Plenipotentiary; and his Majesty declares that he is fully satisfied on this head.

“In regard to the fishery between the island of Newfoundland and those of St. Pierre and Miquelon, it is not to be carried on by either party but to the middle of the channel; and his Majesty will give the most positive orders that the French fishermen shall not go beyond this line. His Majesty is firmly persuaded that the King of Great Britain will give like orders to the English fishermen.

“Given at Versailles, the 3rd of September, 1783.

(L. S.)

“GRAVIER DE VERGENNES.”

TREATY OF PARIS—1814.

ARTICLE 8.—“His Britannic Majesty, stipulating for himself and his allies, engages to restore to his most Christian Majesty, within the term which shall be hereafter fixed, the colonies, fisheries, factories and establishments of every kind, which were possessed by France on the

1st January, 1792, in the seas and on the continents of America, Africa and Asia, with the exception, however, of the islands of Tobago and St. Lucie, and the isle of France and its dependencies, especially Rodrigues and Les Schelles, which several colonies and possessions his most Christian Majesty cedes in full right and sovereignty to his Britannic Majesty, and also the portion of St. Domingo ceded to France by the treaty of Basle, and which his most Christian Majesty restores in full right and sovereignty to his Catholic Majesty."

ARTICLE 13. "The French right of fishery upon the Great Bank of Newfoundland, upon the coasts of the island of that name, and of the adjacent islands in the gulph of St. Lawrence, shall be replaced upon the footing in which it stood in 1792."

TREATY OF PARIS—1815.

ARTICLE 11. "The treaty of Paris, of the thirtieth of May, one thousand eight hundred and fourteen, and the final act of the Congress of Vienna, of the ninth of June, one thousand eight hundred and fifteen, are confirmed, and shall be maintained in all such of their enactments which shall not have been modified by the articles of the present treaty."

EXTRACT FROM THE CONVENTION BETWEEN GREAT
BRITAIN AND THE UNITED STATES, DATED 20TH
OCTOBER, 1818.

ARTICLE 1. Whereas differences have arisen respecting the liberty claimed by the United States, for the inhabitants thereof to take, dry and cure fish on certain coasts, bays, harbours and creeks of his Britannic Majesty's dominions in America, it is agreed between the high contracting parties, that the inhabitants of the said United States shall have for ever, in common with the subjects of his Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameo Islands, on the western and northern coast of Newfoundland, from the said Cape Ray to the Quirpon islands, on the shores of the Magdalen islands, and also on the coasts, bays, harbours, and creeks from Mount Joli, on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly, indefinitely along the coast, without prejudice however to any of the rights of the Hudson's Bay company; and that the American fishermen shall also have liberty for ever to dry and cure fish in any of the unsettled bays, harbours and creeks of the southern part of the coast of Newfoundland hereabove described, and of the coast of Labrador; but so soon as the same or any portion thereof shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors, or possessors of the said ground; and the United States hereby renounce for ever any liberty heretofore enjoyed or claimed by the inhabitants thereof to take, dry, or cure fish on or within three marine miles of any of the coasts, bays, creeks or harbors of his Britannic Majesty's dominions in America, within the above mentioned limits: Provided, however, that the American fishermen shall be admitted to enter such bays or harbors for the purpose of

shelter, and of repairing damages therein, of purchasing wood, and of obtaining water, and for no other purpose whatever. But they shall be under such restrictions as may be necessary to prevent their taking, drying or curing fish therein, or in any other manner whatever abusing the privileges hereby reserved to them.

28 GEORGE III., CHAPTER 35.

AN ACT TO ENABLE HIS MAJESTY TO MAKE SUCH REGULATIONS AS MAY BE NECESSARY TO PREVENT THE INCONVENIENCE WHICH MIGHT ARISE FROM THE COMPETITION OF HIS MAJESTY'S SUBJECTS AND THOSE OF THE MOST CHRISTIAN KING, IN CARRYING ON THE FISHERY ON THE COASTS OF THE ISLAND OF NEWFOUNDLAND.

Whereas, by the thirteenth article of the treaty concluded ^{Treaty of} at Utrecht on the fourth day of April, new stile, in the year of our LORD one thousand seven hundred and thirteen, between her late Majesty Queen Anne and the most Christian King Louis the Fourteenth, it was, among other things, agreed, that the island called Newfoundland, with the adjacent islands, should, from that time forward, belong of right wholly to Britain; and to that end the town and fortress of Placentia and whatever other places in the said island were in the possession of the French, should be yielded and given up, within seven months from the exchange of the ratification of that treaty, or sooner if possible, by the most Christian King, to those who had a commission from the Queen of Great Britain for that purpose; nor should the most Christian King, his heirs or successors, or any of their subjects, at any time thereafter, lay claim to any right to the said island and islands, or to any part of them; moreover, it should not be lawful for the subjects of France to fortify any place in the said island of Newfoundland, or to erect any buildings there, besides stages made of boards and huts necessary and useful for drying of fish, or to resort to the said island beyond the time necessary for fishing and drying fish: That it should be allowed to the subjects of France to catch fish and to dry them on land, on that part only, and in none other besides that part of the island of Newfound-

land which stretches from the place called Cape Bonavista, to the northern point of the said island, and from thence running down by the western side, and reaches as far as the place called Cape Riche; and whereas, by the fifth article of the treaty of peace, concluded at Paris on the tenth day of February, one thousand seven hundred and sixty three, between his Majesty and the late most Christian King Louis the Fifteenth, and his most Catholick Majesty, it was, among other things, agreed, that the subjects of France should have the liberty of fishing and drying on a part of the coast of the island of Newfoundland, such as is specified in the thirteenth article of the treaty of Utrecht, which article is confirmed and renewed by the present treaty; and whereas by the fifth article of the definitive treaty of peace, concluded at Versailles, between his Majesty and the most Christian King, on the third day of September, one thousand seven hundred and eighty three, it was, among other things, agreed, that his Majesty, the King of Great Britain, should be maintained in his right to the island of Newfoundland, and to the adjacent islands, as the whole were assured to him by the thirteenth article of the treaty of Utrecht, excepting the islands of Saint Pierre and Miquelon, which were ceded in full right, by the said treaty of the third day of September, one thousand seven hundred and eighty three, to his most Christian Majesty; and that his Majesty, the most Christian King, in order to prevent the quarrels which had before then arisen between the two nations of England and France, consented to remove the right of fishing which belonged to him in virtue of the aforesaid article of the treaty of Utrecht from Cape Bonavista to Cape St. John, situated on the eastern coast of Newfoundland, in fifty degrees north latitude, and his Majesty the King of Great Britain consented, on his part, that the fishery assigned to the subjects of his most Christian Majesty, beginning at the said Cape St. John, passing to the north, and descending by the western coast of the island of Newfoundland, should extend to the place called Cape Rage, situate in forty-seven degrees and fifty minutes latitude*: The French fishermen should enjoy the fishery which was

* The reading here seems to be incorrect, but the roll is so.

assigned to them by the said article, as they had the right to enjoy that which was assigned to them by the treaty of Utrecht: And whereas, by a declaration delivered by his Majesty's Ambassador Extraordinary to his most Christian Majesty, bearing date also on the said third day of September, one thousand seven hundred and eighty three, his Majesty engaged not only to insure the execution of the last-mentioned treaty with his known good faith and punctuality, but to give all possible efficacy to such principles as may prevent dispute; and, that the fishermen of the two nations may not give cause for daily quarrels, was pleased to engage that he would take the most positive measures for preventing his subjects from interrupting in any manner, by their competition, the fishing of the French, during the temporary exercise thereof which is granted to them upon the coasts of the island of Newfoundland, and that he would, for that purpose, cause the permanent settlements which should be formed there to be removed; and that he would give orders that the French fishermen should not be incommoded in the cutting of wood necessary for the repair of their scaffolds, huts and fishing boats; and that the thirteenth article of the treaty of Utrecht, and the method of carrying on the fishery which had at all times been acknowledged, should be the plan upon which the fishery should be carried on there, and that it should not be deviated from by either party, the French fishermen building only their scaffolds, confining themselves to the repair of their fishing vessels, and not wintering there; the subjects of his Britannic Majesty, on their part, not molesting in any manner the French fishermen during their fishing, nor injuring their scaffolds during their absence; and whereas it is expedient, in conformity to the definitive treaty of peace and the declaration aforesaid, that his Majesty's subjects should be prevented from interrupting in any manner, by their competition, the aforesaid fishery of the subjects of his most Christian Majesty, during the temporary exercise thereof which is granted to them on the coast of Newfoundland; and that all permanent establishments on that part of the coast allotted to the French fishermen should be removed; and that such fishermen should be in no manner molested,

Declaration of
the French
King of 3rd
Sept., 1783.

contrary to the tenor of the said treaty, and the good faith thereof; in order, therefore, that his Majesty may be the better enabled to carry the said several treaties and declarations into faithful and punctual execution, and to make such regulations as may be expedient, respecting the fishery, in the manner hereinafter mentioned, be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons, in this present Parliament assembled, and by the authority of the same, that it shall and may be lawful for his Majesty, his heirs and successors, by advice of council, from time to time, to give such orders and instructions to the Governor of Newfoundland, or any officer or officers on that station, as he or they shall deem proper and necessary to fulfill the purposes of the definitive treaty and declaration aforesaid; and, if it shall be necessary to that end, to give orders and instructions to the Governor or other officer or officers aforesaid, to remove or cause to be removed, any stages, flakes, train vats or other works whatever, for the purpose of carrying on the fishery, erected by his Majesty's subjects on that part of the coast of Newfoundland which lies between Cape Saint John, passing to the north, and descending by the western coast of the said island to the place called Cape Rage, and also all ships, vessels and boats belonging to his Majesty's subjects, which shall be found within the limits aforesaid, and also, in case of refusal, to depart from within the limits aforesaid, to compel any of his Majesty's subjects to depart from thence; any law, usage or custom to the contrary notwithstanding.

His Majesty
may give orders
to Governor of
Newfoundland
&c.

Refusing to
conform to di-
rections of Go-
vernor.

2. And be it further enacted by the authority aforesaid, that if any person or persons shall refuse, upon requisition made by the Governor or any officer or officers acting under him, in pursuance of his Majesty's orders or instructions as aforesaid, to depart from within the limits aforesaid, or otherwise to conform to such requisition and directions as such Governor or other officer as aforesaid shall make or give for the purposes aforesaid, every such person or persons so refusing or otherwise offending against the same, shall forfeit the sum of two hundred pounds, to be recovered in the Court of Session or Court of Vice Admiralty in the said

Penalty.

island of Newfoundland, or by bill, plaint or information, in any of his Majesty's Courts of Record at Westminster ; one moiety of such penalty to belong to his Majesty, his heirs and successors, and the other moiety to such person or persons as shall sue or prosecute for the same : Provided al-^{Limitation of suits.} ways, that every such suit or prosecution, if the same be commenced in Newfoundland, shall be commenced within three months ; and if commenced in any of his Majesty's Courts of Record at Westminster, within twelve months from the time of the commission of such offence.

59 GEORGE III., CHAPTER 38.

Convention
dated 20th Oct.
1818.

AN ACT TO ENABLE HIS MAJESTY TO MAKE REGULATIONS WITH RESPECT TO THE TAKING AND CURING FISH ON CERTAIN PARTS OF THE COASTS OF NEWFOUNDLAND, LABRADOR, AND HIS MAJESTY'S OTHER POSSESSIONS IN NORTH AMERICA, ACCORDING TO A CONVENTION MADE BETWEEN HIS MAJESTY AND THE UNITED STATES OF AMERICA.

14th JUNE, 1819.

Whereas a convention between his Majesty and the United States of America was made and signed at London, on the twentieth day of October, one thousand eight hundred and eighteen; and by the first article of the said convention, reciting that differences had arisen respecting the liberty claimed by the United States for the inhabitants thereof to take, dry and cure fish in certain coasts, bays, harbors and creeks of his Britannic Majesty's dominions in America, it is agreed, that the inhabitants of the said United States shall have for ever, in common with the subjects of his Britannic Majesty, the liberty to take fish of every kind on that part of the southern coast of Newfoundland which extends from Cape Ray to the Rameau Islands, on the western and northern coasts of Newfoundland, from the said Cape Ray to the Quirpon Islands, on the shores of the Magdalen Islands, and also on the coasts, bays, harbours and creeks from Mount Joly on the southern coast of Labrador, to and through the Straits of Belle Isle, and thence northwardly indefinitely along the coast, without prejudice however to any of the exclusive rights of the Hudson's Bay company; and it was also by the said article of the said convention agreed, that the American fishermen should have liberty for ever to dry and cure fish in any of the unsettled bays, harbours and creeks of the southern part of the coast of Newfoundland above described, and of the coast of Labrador,

but that so soon as the same, or any portion thereof, should be settled, it should not be lawful for the said fishermen to dry or cure fish at such portion so settled, without previous agreement for such purpose with the inhabitants, proprietors or possessors of the ground; and whereas it is expedient that his Majesty should be enabled to carry into execution so much of the said convention as is above recited, and to make regulations for that purpose; be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this act, it shall and may be lawful for his Majesty, by and with the advice of his Majesty's Privy Council, by any order or orders in Council, to be from time to time made for that purpose, to make such regulations, and to give such directions, orders and instructions to the Governor of Newfoundland, or to any officer or officers on that station, or to any other person or persons whomsoever, as shall or may be from time to time deemed proper and necessary for the carrying into effect the purposes of the said convention, with relation to the taking, drying and curing of fish by inhabitants of the United States of America, in common with British subjects, within the limits set forth in the said article of the said convention, and hereinbefore recited; any act or acts of Parliament, or any law, custom or usage to the contrary in anywise notwithstanding.

2. And be it further enacted, that from and after the passing of this act it shall not be lawful for any person or persons, not being a natural-born subject of his Majesty, in any foreign ship, vessel or boat, nor for any person in any ship, vessel or boat, other than such as shall be navigated according to the laws of the United Kingdom of Great Britain and Ireland, to fish for, or to take, dry or cure any fish of any kind whatever, within three marine miles of any coasts, bays, creeks or harbours whatever, in any part of his Majesty's dominions in America, not included within the limits specified and described in the first article of the said convention, and hereinbefore recited; and that if any such foreign ship, vessel or boat, or any persons on board

His Majesty
in Council may
make regula-
tions for carry-
ing the con-
vention into
effect.

Foreigners and
persons in fo-
reign vessels
not to fish
within a cer-
tain distance
of any British
harbour in
America not
included in the
limits prescrib-
ed by the con-
vention.

thereof, shall be found fishing, or to have been fishing, or preparing to fish within such distance of such coasts, bays, creeks or harbours, within such parts of his Majesty's dominions in America out of the said limits as aforesaid, all such ships, vessels and boats, together with their cargoes, and all guns, ammunition, tackle, apparel, furniture and stores, shall be forfeited, and shall and may be seized, taken, sued for, prosecuted, recovered and condemned by such and the like ways, means and methods, and in the same Courts, as ships, vessels or boats may be forfeited, seized, prosecuted and condemned for any offence against any laws relating to the revenue of customs, or the laws of trade and navigation, under any act or acts of the Parliament of Great Britain, or of the United Kingdom of Great Britain and Ireland; provided that nothing in this act contained shall apply, or be construed to apply to the ships or subjects of any Prince, power or state in amity with his Majesty, who are entitled by treaty with his Majesty to any privilege of taking, drying or curing fish on the coasts, bays, creeks or harbours, or within the limits in this act described.

Penalty.

Proviso for vessels of powers entitled thereto by treaty.

American fishermen may enter such harbors for purposes herein mentioned, subject to such regulations as may be issued to prevent the abuse of the treaty.

3. Provided always, and be it enacted, that it shall and may be lawful for any fisherman of the said United States to enter into any such bays or harbours of his Britannic Majesty's dominions in America as are last mentioned, for the purpose of shelter and repairing damages therein, and of purchasing wood and of obtaining water, and for no other purpose whatever; subject nevertheless to such restrictions as may be necessary to prevent such fishermen of the said United States from taking, drying or curing fish in the said bays or harbors, or in any other manner whatever abusing the said privileges by the said treaty and this act reserved to them, and as shall for that purpose be imposed by any order or orders to be from time to time made by his Majesty in Council under the authority of this act, and by any regulations which shall be issued by the Governor or person exercising the office of Governor in any such parts of his Majesty's dominions in America, under or in pursuance of any such order in Council as aforesaid.

Refusing upon requisition to remove, or disobeying orders

4. And be it further enacted, that if any person or persons, upon requisition made by the Governor of Newfound-

land, or the person exercising the office of Governor, or by any Governor or person exercising the office of Governor in any other parts of his Majesty's dominions in America as aforesaid, or by any officer or officers acting under such Governor or person exercising the office of Governor, in the execution of any orders or instructions from his Majesty in Council, shall refuse to depart from such bays or harbors ; or if any person or persons shall refuse or neglect to conform to any regulations or directions which shall be made or given for the execution of any of the purposes of this act ; every such person so refusing or otherwise offending against this act shall forfeit the sum of two hundred pounds, to be re- ^{Penalty.} covered in the superior Court of Judicature of the island of Newfoundland, or in the superior Court of Judicature of the colony or settlement within or near to which such offence shall be committed, or by bill, plaint or information in any of his Majesty's Courts of Record at Westminster ; one moiety of such penalty to belong to his Majesty, his heirs and successors, and the other moiety to such person or persons as shall sue or prosecute for the same : Provided always, that ^{Limitation of prosecution.} any such suit or prosecution, if the same be commenced in Newfoundland, or in any other colony or settlement, shall be commenced within three calendar months ; and, if commenced in any of his Majesty's Courts at Westminster, within twelve calendar months from the time of the commission of such offence.

THE END.

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